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INTERSTATE COMMERCE COMMISSION

[CS&M Ref.: 1240-141]

LEASE OF RAILROAD EQUIPMENT

Dated as of November 15, 1980

Between

C.I.T. FINANCIAL SERVICES, INC.,
Lessor,

and

EARLY & DANIEL INDUSTRIES, INC.,
Lessee.

(Covering 50 4,750 CFC Covered Hopper Cars)

LEASE OF RAILROAD EQUIPMENT dated as of November 15, 1980, between C.I.T. FINANCIAL SERVICES, INC., a Delaware corporation (the "Lessor"), acting through its agent, C.I.T. Corporation, a New York corporation, and EARLY & DANIEL INDUSTRIES, INC., an Indiana corporation (the "Lessee").

WHEREAS Tidewater Grain Company (the "Sublessee") has assigned to the Lessor, pursuant to a Purchase Agreement Assignment dated as of the date hereof (the "Assignment"), certain of its interest in a purchase agreement (the "Purchase Agreement"), between the Sublessee and Pullman Incorporated (Pullman Standard Division) (the "Builder");

WHEREAS the Lessor has accepted said Assignment and proposes to purchase from the Builder such units of railroad equipment described in Schedule A hereto as are delivered and accepted under the terms of this Lease (the "Units");

WHEREAS the Lessee desires to lease from the Lessor such number of Units as are so delivered and accepted hereunder, at the rentals and for the terms and upon the conditions hereinafter provided; and

WHEREAS the Lessee will sublease the Units to the Sublessee pursuant to a Sublease of Railroad Equipment dated as of the date hereof in the form attached hereto as Exhibit A (the "Sublease"), and the Lessee will assign the Sublease to the Lessor pursuant to a Sublease Assignment and Agreement dated as of the date hereof in the form attached hereto as Exhibit B (the "Sublease Assignment");

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Lessor hereby leases the Units to the Lessee upon the following terms and conditions:

§ 1. Net Lease. This Lease is a net lease and, except as herein provided, the Lessee shall not be entitled to any abatement of rent, reduction thereof or setoff against rent, including, but not limited to, abatements,

reductions, recoupments or setoffs due or alleged to be due by reason of any past, present or future claims of the Lessee against the Lessor under this Lease or the Builder or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Units, the prohibition of or other restriction against the Lessee's use of all or any of the Units, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, any insolvency of or the bankruptcy, reorganization or similar proceeding against the Lessee, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. To the extent permitted by applicable law, the Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any of the Units except in accordance with the express terms hereof. Each rental or other payment made by the Lessee hereunder shall be final (except, to the extent of amounts not otherwise due under this Lease, for payments made in error) and the Lessee shall not seek to recover all or any part of any such rental or other payment from the Lessor for any reason whatsoever.

§ 2. Delivery and Acceptance of Units. The Lessor hereby appoints the Lessee its agent for inspection and acceptance of the Units. The Lessee will cause its agent (which may be the Sublessee or an employee or agent of the Sublessee) or an employee of the Lessee to inspect the same and, if such Unit is found to be acceptable, to execute and deliver to the Builder a certificate of acceptance (the "Certificate of Acceptance") stating that such Unit has been inspected and accepted on behalf of the Lessee and the Lessor on the date of such Certificate of Acceptance and is marked in accordance with § 5 hereof, whereupon such Unit shall be deemed to have been accepted by the Lessee

and shall be subject thereafter to all the terms and conditions of this Lease. The Lessor will cause each Unit to be delivered to the Lessee at the point or points specified in Schedule A hereto. Units shall not be delivered to or accepted by the Lessee (i) before the documents required to be delivered pursuant to § 15 hereof have been delivered, or (ii) subsequent to December 31, 1980.

§ 3. Rentals. The Lessee agrees to pay to the Lessor, as rental for each Unit subject to this Lease, (i) an interim installment of rent payable on January 2, 1981, and (ii) 240 consecutive monthly installments commencing February 1, 1981, with each subsequent installment payable on the first day of each month in each year, to and including January 1, 2001. The interim installment of rent for each Unit shall be in an amount equal to the product of (a) the number of calendar days elapsed from and including the date of acceptance of such Unit to but not including, January 1, 1981, times (b) .0311% of the Purchase Price (as that term is defined in the Assignment) of such Unit and the 240 consecutive monthly rental installments shall be in arrears each in an amount equal to .9325% of the Purchase Price of each Unit then subject to this Lease.

If any of the rental payment dates referred to above is not a business day the rental payment otherwise payable on such date shall be payable on the next succeeding business day. The term "business day" as used herein means a calendar day, excluding Saturdays, Sundays and all other days on which banking organizations in New York, New York, are authorized or obligated to remain closed.

The Lessor hereby instructs the Lessee to make all the payments provided for in this Lease directly to it at such address as shall from time to time be specified in writing by the Lessor. The Lessee agrees to make each payment provided for herein as contemplated by this paragraph in New York Clearing House funds.

§ 4. Term of Lease. The term of this Lease as to each Unit shall begin on the date of acceptance of such Unit hereunder and, subject to the provisions of §§ 6, 7, 9, 10, 13 and 17 hereof, shall terminate on January 1, 2001.

§ 5. Identification Marks. The Lessee will, at its own expense, cause each Unit to be kept numbered with

the identifying number set forth in Schedule A hereto, or in the case of any Unit not there listed such identifying number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such Unit, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the words "Owned by C.I.T. Financial Services, Inc." or other appropriate words designated by the Lessor, with appropriate changes thereof and additions thereto designated by the Lessor as from time to time may be required by law in order to protect the Lessor's title to and property in such Unit and the rights of the Lessor under this Lease. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such words shall have been so marked on both sides thereof and will replace promptly any such words which may be removed, defaced or destroyed. The Lessee will not change the identifying number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Lessor and filed, recorded and deposited by the Lessee in all public offices where this Lease shall have been filed, recorded and deposited and (ii) the Lessee shall have furnished Lessor an opinion of counsel to the effect set forth in subparagraph (i)C of § 15 hereof in respect of such statement.

Except as provided in the immediately preceding paragraph, the Lessee will not allow the name of any person, association or corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership; provided, however, that the Units may be lettered with the names, trademarks, initials or other insignia customarily used by the Lessee, the Sublessee, any affiliate of either of them or any sublessee of them under a sublease authorized by § 12 hereof.

§ 6. Taxes. All payments to be made by the Lessee hereunder will be free of withholdings of any nature whatsoever and free of expense to the Lessor or any affiliate thereof for collection or other charges and will be free of expense to the Lessor or any affiliate thereof with respect to the amount of any local, state, Federal or foreign taxes or withholdings (other than any United States Federal net income tax payable by the Lessor in consequence of the receipt of payments provided for herein and state and local net income taxes payable by the Lessor

to the taxing jurisdiction in which the principal place of business of the Lessor is located [other than gross receipts or gross income taxes in the nature of sales or use taxes], except, but only to the extent that, any such tax which is in substitution for or relieves the Lessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided) or registration, documentation and license fees, assessments, duties, charges, fines or penalties (all such expenses, taxes, withholdings, registration, documentation and license fees, assessments, duties, charges, fines and penalties being hereinafter called "impositions") hereafter levied, imposed or assessed upon or in connection with or measured by this Lease or the Sublease or any possession, storage, purchase, sale, rental, use, payment, shipment, acceptance, rejection, delivery or transfer of title under the terms hereof, all of which impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Lessee will also pay promptly all impositions which may be levied, imposed or assessed upon any Unit or for the use or operation thereof or upon the earnings arising therefrom (except as provided above) or upon the Lessor or any affiliate thereof solely by reason of its purchase or ownership thereof and will keep at all times all and every part of such Unit free and clear of all impositions which might in any way affect the title of the Lessor or result in a lien upon any such Unit (other than liens resulting from claims against the Lessor not related to its ownership or leasing of the Units); provided, however, that the Lessee shall be under no obligation to pay any impositions of any kind so long as it is contesting in good faith and by appropriate legal proceedings such impositions and the nonpayment thereof does not, in the opinion of the Lessor, adversely affect the title, property or rights of the Lessor hereunder. The Lessor agrees fully to cooperate with the Lessee in any such contest, which would be at the Lessee's expense. If any impositions shall have been charged or levied against the Lessor or any affiliate thereof directly and paid by the Lessor or any affiliate thereof, the Lessee shall reimburse the Lessor or such affiliate on presentation of an invoice therefor. The obligations of the Lessee to pay all impositions shall be deemed a rental obligation.

If any imposition is imposed on the Lessor or any affiliate thereof, the Lessor shall promptly notify the Lessee, but failure to provide such notice shall not affect the Lessee's obligation to pay or reimburse such party for

any such imposition, except to the extent Lessee is prejudiced by such failure in contesting such imposition. In the event any reports with respect to impositions are required to be made, the Lessee will either make such reports in such manner as to show the interest of the Lessor in such Units or notify the Lessor of such requirement and make such reports in such manner as shall be satisfactory to the Lessor; provided, however, that if the Lessee is not permitted to make such reports on behalf of the Lessor, it will so notify the Lessor and will furnish to the Lessor all information necessary for the Lessor to make such reports. All costs and expenses (including legal and accounting fees) of preparing such reports shall be borne by the Lessee.

The Lessee shall, whenever reasonably requested by the Lessor, submit to the Lessor copies of returns, statements, reports, billings and remittances with respect to, or furnish other evidence satisfactory to the Lessor of, the Lessee's performance of its duties under this § 6. The Lessee shall also furnish promptly upon request such data as the Lessor reasonably may require to permit the Lessor's compliance with the requirements of taxing jurisdictions, including, but not limited to, data provided on a quarterly basis as to any use of any Unit outside the United States of America.

In the event that the Lessee shall be required to make any payment with respect to any imposition which is subject to indemnification under this § 6, the Lessee shall pay the Lessor or any affiliate thereof, as the case may be, an amount which, after deduction of all taxes required to be paid by such person in respect of the receipt thereof under the laws of the United States or any foreign country or political subdivision of either (after giving credit for any savings in respect of any such taxes by reason of deductions, credits (other than the foreign tax credit) or allowances in respect of the payment of the amount indemnified against, and of any other such taxes), shall be equal to the amount of such payment. If the Lessor or any affiliate thereof shall be deemed to utilize a credit against its United States Federal income tax liability on account of any amount payable by Lessee pursuant to this § 6, the Lessor or such affiliate, as the case may be, shall promptly pay to the Lessee the amount of such credit so utilized (but not in excess of the amount previously indemnified by Lessee). For purposes of this § 6, in determining the order in which the Lessor or any affiliate

thereof utilizes withholding or other foreign taxes as a credit against its United States income taxes, the Lessor or such affiliate, as the case may be, shall be deemed to utilize (i) first, all credits (whether current, carryback or carryforward and whether foreign tax or other credits) other than those described in clause (ii) below, and (ii) then, on a pro rata basis, all credits for foreign taxes with respect to which the Lessor or any affiliate thereof, as the case may be, is entitled to obtain indemnification pursuant to an indemnification provision contained in any lease or participation agreement or other agreement relating to a lease.

The Lessee's obligations under this § 6 shall be those of a primary obligor whether or not the Lessor or any affiliate thereof, as the case may be, is also indemnified with respect to the same matter by any other person; provided that, if no Event of Default (or event which after notice or lapse of time or both would become an Event of Default) has occurred and is continuing, the Lessee's obligations under this § 6 shall be reduced by such indemnification actually and unconditionally received by the lessor or such affiliate, as the case may be.

The representations, indemnities and agreements of the Lessee provided for herein, including without limitation §§ 6, 9 and 17 hereof, and the Lessee's obligations thereunder, shall survive the expiration or other termination of this Lease, but only with respect to periods included in the term of this Lease (including any renewals hereof) and any period during which the Lessee is required to insure, maintain or store the Units pursuant to §§ 11 and 14 hereof, and are expressly made for the benefit of, and shall be enforceable by, the Lessor.

§ 7. Maintenance; Payment for Casualty Occurrences; Termination for Economic Obsolescence; Insurance.
The Lessee agrees that, at the Lessee's own cost and expense, it will be responsible for ordinary maintenance and repairs required to maintain and keep all of the Units which are subject to this Lease in good operating order, repair and condition, ordinary wear and tear excepted, and eligible for interchange service under the applicable rules of the American Association of Railroads (or any of its successors).

In the event that during the term of this Lease or until such Unit shall have been returned pursuant to § 14 hereof, any Unit shall be or become worn out, lost, stolen, destroyed, or irreparably damaged, from any cause whatsoever, or taken or requisitioned by condemnation or

otherwise under authority of law and such taking or requisition shall have exceeded 120 days or shall extend beyond the term of this Lease (such occurrences being hereinafter called "Casualty Occurrences"), the Lessee shall promptly and fully notify the Lessor with respect thereto. On the rental payment date next succeeding such notice or within 60 days if such Unit is being returned under § 14 hereof the Lessee shall pay to the Lessor an amount equal to the accrued rental in respect of such Unit to and including the date payment is due pursuant to this sentence plus a sum equal to the Casualty Value (as hereinafter defined) of such Unit as of the date such payment is due, if payment is due on a rental payment date, and as of the next preceding rental payment date if payment is not due on a rental payment date, in each case in accordance with the schedule set out in Schedule B hereto. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue and the term of this Lease as to such Unit shall terminate. The Lessor shall, after payment by the Lessee of a sum equal to the Casualty Value of any Unit which shall have suffered a Casualty Occurrence, and any other amounts then due hereunder, execute and deliver to the Lessee a bill of sale (without warranties other than against the Lessor's acts) for such Unit. In the event that any Unit is taken or requisitioned under authority of law as set forth in the first sentence of this paragraph but such taking does not exceed 120 days nor extend beyond the end of the term of this Lease, the Lessee shall notify the Lessor of such taking or requisition and all of the Lessee's obligations under this Lease with respect to such Unit, including but not limited to rental with respect thereto pursuant to § 3 hereof, shall continue as if such taking or requisition had not occurred. All payments received by the Lessor or the Lessee in respect of such taking or requisition of the use of such Unit during the term of this Lease shall be paid over to, or retained by, the Lessee, provided that no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing.

The Casualty Value of each Unit as of any rental payment date or such other date on which such Casualty Value is payable shall be that percentage of the Purchase Price of such Unit as is set forth in Schedule B hereto.

Except as hereinabove in this § 7 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit from and after delivery and acceptance thereof by the Lessee hereunder.

Notwithstanding any provision contained in this Lease to the contrary, in the event that the Sublessee shall in its reasonable judgment determine that the Units have become obsolete or surplus to the Sublessee's requirements during the original term of this Lease and exercise its option to terminate the Sublease (subject to the terms and conditions of § 7 thereof), this Lease shall terminate (subject to the provisions for the survival of certain obligations contained in the last sentence of § 6 hereof) on the termination date of the Sublease (as such term is defined in the Sublease and for the purpose of this § 7 called the "termination date"). Promptly after receipt thereof, the Lessee shall deliver to the Lessor a copy of the Sublessee's notice to the Lessee of its intention to exercise its termination option and a certificate signed by the Sublessee's Chairman of the Board, President or one of its Vice Presidents to the effect that the Units are surplus or obsolete. During the period from the giving of such notice by the Sublessee until the fifth business day preceding the termination date, the Lessee, as agent for the Lessor, shall use its best efforts to obtain cash bids for the purchase of the Units, and the Lessee shall at least five business days prior to such termination date certify to, or cause the Sublessee to certify to, the Lessor the amount of each such bid and the name and address of the party (which shall not be the Lessee, the Sublessee or a corporation or individual affiliated with the Lessee or the Sublessee or any party from whom the Lessee or the Sublessee or any such affiliate intends thereafter to lease the Units) submitting such bid. On the termination date the Lessor shall, subject to the Lessee's obtaining, on behalf of the Lessor, any governmental consents required, sell the Units for cash to the bidder who shall have submitted the highest bid prior to the termination date. The total sales price realized at such sale shall be paid directly to the Lessor in immediately available funds and, in addition, on the termination date, the Lessee shall pay to the Lessor, (i) the excess, if any, of the Economic Obsolescence Value (as hereinafter defined) in respect of the Units, computed as of the termination date, over the net sales price of the Units after deducting from such sales price any and all costs and expenses whatsoever incurred by the Lessor in connection with such sale and (ii) the rental payment due on the termination date.

Except as provided in the next paragraph of this § 7, if no sale shall occur on the date scheduled therefor as above provided, this Lease shall continue in full force and effect. In the event of such sale and the receipt by the Lessor of the amounts above described, the obligation

of the Lessee to pay rent pursuant to § 3 hereof in respect of the Units on each rental payment date shall continue to and include the termination date but shall then terminate. The Lessor shall be under no duty to solicit bids, to inquire into the efforts of the Lessee to obtain bids or otherwise to take any action or incur any cost or expense in connection with any sale pursuant to this § 7, other than to transfer or to cause to be transferred to the purchaser named in the highest bid certified by the Lessee to the Lessor as above provided all of the Lessor's right, title and interest in and to the Units. Any sale pursuant to this § 7 shall be free and clear of all of the Lessee's rights to the Units, but otherwise shall be made without warranties other than against Lessor's acts.

If the Sublessee shall exercise its option to terminate the Sublease, the Lessor may, notwithstanding such election by the Sublessee, by written notice to the Lessee given within 45 days after receipt of Sublessee's notice of its intention to terminate the Sublease, elect to retain the Units, in which case the Lessee shall not be obligated to pay any amount determined with reference to the Economic Obsolescence Value to the Lessor. In the event the Lessor shall so elect to retain the Units, the Lessee shall deliver the Units to the Lessor in accordance with the provisions of § 14 hereof.

The Economic Obsolescence Value of each Unit as of any rental payment date after the seventh year after the due date of the interim installment of rent payable pursuant to § 3 hereof of this Lease shall be that percentage of the Purchase Price of such Unit as is set forth in Schedule C hereto.

The Lessee will procure and maintain (or cause the Sublessee to so procure and maintain) at its sole cost and expense at all times during the continuance of this Lease (and thereafter so long as any Unit is at the risk of the Lessee), insurance coverage for comprehensive general liability (in limits of at least \$25,000,000 and including contractual liability with respect to the "hold harmless" or indemnification agreement between the Lessee and the Lessor contained in § 9 hereof), physical damage, theft, fire with extended coverage and any other insurance as may be reasonably required by the Lessor for the benefit of the Lessor as its interests appear, in amounts, against risks, in form and with insurance companies or underwriters as shall be satisfactory to the Lessor from time to time and shall deliver to the Lessor satisfactory evidence of such insurance coverage; provided, however, that Lessee shall

not be required to maintain physical damage, theft, or fire with extended coverage insurance in an amount in excess of the applicable Casualty Value of the Units and; provided further, however, that the comprehensive general liability insurance may contain a \$50,000 deductible provision per occurrence, the physical damage, theft, fire with extended coverage insurance may contain a \$1,000,000 deductible provision per occurrence. Without limiting the foregoing, each insurance policy shall provide that it will not be invalidated as against the Lessor because of any violation of a condition or warranty of the policy or application therefor by the Lessee (or the Sublessee) and that it may be altered or canceled by the insurer only after 30 days' advance written notice to, and that losses in excess of \$100,000 shall be adjusted only with the consent of, the Lessor or its assigns. All liability policies shall name the Lessor as an insured. All policies covering loss or damage to the Units shall provide that payment thereunder for any such loss or damage shall be made to the Lessor and the Lessee (or the Sublessee) as their interests may appear. If the Lessee shall fail to provide and furnish (or cause the Sublessee so to provide and furnish) any of said insurance, the Lessor may, after reasonable notice to the Lessee and a reasonable opportunity, under the circumstances, to correct or provide such insurance procure such insurance and the Lessee shall, upon demand, reimburse the Lessor for all outlays for such insurance with interest thereon computed at the rate of 18% per annum or such lesser maximum rate as is permitted by applicable law. The Lessee may provide for any such insurance under blanket insurance policies maintained by the Lessee (or the Sublessee) with respect to other properties owned or leased by it.

Any insurance proceeds as the result of insurance carried by the Lessee (or the Sublessee) or condemnation payments received by the Lessor in respect of Units suffering a Casualty Occurrence or other payments received by the Lessor in respect of the value of Units suffering a Casualty Occurrence shall be deducted from the amounts payable by the Lessee to the Lessor in respect of Casualty Occurrences pursuant to this § 7, provided that no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing. If the Lessor shall receive any such insurance proceeds, any such condemnation payments or such other payments after the Lessee shall have made payments with respect to a Unit pursuant to this § 7 without deduction for such insurance proceeds, such condemnation payments or such other payments, the Lessor shall pay all such insurance proceeds with respect to a Unit to the Lessee and

shall pay such condemnation payments or such other payments to the Lessee up to an amount equal to the Casualty Value paid by the Lessee with respect to a Unit, provided that no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing, and any balance of such condemnation payments or such other payments shall remain the property of the Lessor. All insurance proceeds received by the Lessor in respect of any Unit not suffering a Casualty Occurrence shall be paid to the Lessee upon proof satisfactory to the Lessor that any damage to such Unit in respect of which such proceeds were paid has been fully repaired, provided that no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing.

§ 8. Reports. On or before September 30 in each year, commencing with the calendar year 1981, the Lessee will furnish to the Lessor an accurate statement (a) setting forth as at the preceding May 31 the amount, description and numbers of all Units then leased hereunder, the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding fiscal year (or since the date of this Lease in the case of the first such statement) or are then undergoing repairs (other than running repairs) or then withdrawn from use pending such repairs (other than running repairs) and such other information regarding the condition and state of repair of the Units as the Lessor may reasonably request and (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and markings required by § 5 hereof have been preserved or replaced. The Lessor shall have the right by its agents, to inspect the Units and the Lessee's records with respect thereto at such reasonable times as the Lessor may request during the continuance of this Lease. Each such statement delivered to the Lessor shall be accompanied by a certificate (dated the date of delivery), of the President or a Vice President of the Lessee confirming that as of the date of such certificate, to their best knowledge after due inquiry, no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default), has occurred and is continuing, or if any such event has occurred and is continuing, specifying the nature and period of existence thereof and what action the Lessee has taken or proposes to take with respect thereto.

The Lessee will deliver or cause to be delivered to the Lessor:

(i) as soon as available and to the extent

available, and in any event within 90 days after the end of the first, second and third quarterly accounting periods in each fiscal year of the Lessee, copies of the consolidated balance sheets of the Lessee as of the end of such accounting period and copies of the related consolidated statements of income of the Lessee for the portion of its fiscal year ended with the last day of such quarterly accounting period, all unaudited and in reasonable detail and stating in comparative form the figures for the corresponding date and period in the previous fiscal year;

(ii) as soon as available, and in any event within 120 days after the end of each fiscal year, copies, in comparative form with the preceding fiscal year, of the consolidated balance sheet of the Lessee as at the end of such fiscal year, and of the consolidated statements of income and retained earnings of the Lessee for such fiscal year, all in reasonable detail and stating in comparative form the consolidated figures as of the end of and for the previous fiscal year, and as certified by the Lessee's independent public accountants;

(iii) within the periods set forth in § 8 of the Sublease, the documents to be delivered by the Sublessee pursuant to said Section;

(iv) as soon as available, a copy of each report or other document furnished by the Lessee to its shareholders and copies of Form 10-K's, 10-Q's or 8-K's filed with the Securities and Exchange Commission, if any; and

(v) with reasonable promptness such other information concerning the Lessee or the Sublessee as the Lessor shall reasonably request.

§ 9. Disclaimer of Warranties; Compliance with Laws and Rules; Maintenance; Indemnification. THE LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS OR ANY COMPONENT DELIVERED TO THE LESSEE HEREUNDER, AND THE LESSOR MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS FOR ANY PARTICULAR PURPOSE OR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, OR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT OR ANY COMPONENT, EITHER UPON DELIVERY THEREOF TO THE LESSEE OR OTHERWISE, it being agreed that all such

risks, as between the Lessor and the Lessee, are to be borne by the Lessee; but the Lessor hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for the account of the Lessor and/or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Lessor may have against the Builder under the provisions of the Purchase Agreement; provided, however, that if at any time an Event of Default shall have occurred and be continuing, the Lessor may assert and enforce, at the Lessee's sole cost and expense, such claims and rights. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Lessor that the Units described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor based on any of the foregoing matters.

The Lessee agrees, for the benefit of the Lessor, to comply in all respects (including without limitation, with respect to the use, maintenance and operation of each Unit) with all laws of the jurisdictions in which its operations involving the Units may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units, and in the event that such laws or rules require any alteration, replacement or addition of or to any part on any Unit, the Lessee will conform therewith at its own expense; provided, however, that the Lessee may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Lessor, adversely affect the property or rights of the Lessor under this Lease. The Lessee, at its own cost and expense, may from time to time make such other additions, modifications and improvements to the Units during the term of this Lease as are readily removable without causing material damage to the Units (and do not adversely and materially affect the value of the Units). The additions, modifications and improvements made by the Lessee under the preceding sentence shall be owned by the Lessee (or such other party as may have title thereto), except to the extent such additions, modifications or improvements are described in the following sentence. Any and all parts installed on and additions

and replacements made to any Unit (i) which are not readily removable without causing material damage to such Unit, (ii) the cost of which is included in the Purchase Price of such Unit, (iii) in the course of ordinary maintenance of the Units (including, but not limited to, parts in replacement of or in substitution for, and not in addition to, any parts originally incorporated in or installed as part of such Unit at time of acceptance hereunder or any part in replacement of, or substitution for, such replacement part) or (iv) which are required for the operation or use of such Unit by the interchange rules of the Association of American Railroads or by the regulations of the Interstate Commerce Commission, the United States Department of Transportation or any other regulatory body, shall constitute accessions to such Unit and full ownership thereof free from any lien, charge, security interest or encumbrance shall immediately be vested in the Lessor.

The Lessor (which term as used herein shall include the Lessor's successors, assigns, agents and servants) shall have no responsibility or liability to the Lessee, its successors or assigns, or to any other person, with respect to any or all liabilities (as "liabilities" is hereinafter defined), and the Lessee hereby assumes liability for, and hereby agrees, at its own cost and expense, to indemnify, protect, defend, save and keep harmless the Lessor from and against, any and all liabilities, other than the Lessor's obligation to pay to the Builder the Purchase Price for all Units delivered and accepted in accordance with the terms hereof and the Assignment. The term "liabilities" as used herein shall include any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs, expenses and disbursements, including reasonable legal fees and expenses, of whatsoever kind and nature, imposed on, incurred by or asserted against the Lessor, in any way relating to or arising out of this Lease, the Sublease, the Purchase Agreement, the Assignment, the Sublease Assignment, the Consent (as defined in the Sublease) or the manufacture, purchase, acceptance, rejection, ownership, transporting, delivery, lease, sublease, possession, control, use, operation, condition, testing, servicing, maintenance, repair, improvement, replacement, storage, sale, return or other disposition of the Units (including, without limitation, (a) any inadequacy or deficiency or defect therein, including latent defects, whether or not discoverable by the Lessor, the Lessee or the Sublessee or any claim for patent, trademark or copyright infringement, (b) any accident in connection therewith resulting in damage to property or injury or death to any person, including but not limited to, employees and agents of the Lessee or the Sublessee, (c) any

strict liability in tort or imposed by statute and (d) any interruption of service, loss of business or consequential damages resulting therefrom). The Lessee shall not be responsible to the Lessor under this § 9 with respect to any claim to the extent that such claim arises solely from the Lessor's own default, own negligence or own law violations. The Lessee agrees to give the Lessor and the Lessor agrees to give the Lessee (and the Sublessee) prompt written notice of any of the liabilities hereby indemnified against. The Lessee's obligations under this paragraph shall be those of a primary obligor whether or not the Lessor is also indemnified with respect to the same matter by any other person; provided that, if no Event of Default (or event which after notice or lapse of time or both would become an Event of Default) has occurred and is continuing, the Lessee's obligations under this paragraph shall be reduced by such indemnification actually and unconditionally received by the Lessor. The indemnities arising under this paragraph shall survive payment of all other obligations under this Lease and the expiration or termination of this Lease. Upon the unconditional payment in full of any indemnities as contained in this § 9 by the Lessee, and provided that no Event of Default (or other event which with lapse of time or notice or both would constitute an Event of Default) shall have occurred and be continuing, the Lessee shall be subrogated to any right of the Lessor in respect of the matter against which indemnity has been given. Provided that no Event of Default (or other event with which lapse of time or notice or both would constitute an Event of Default) shall have occurred and be continuing, any payments received by the Lessor from any person (except the Sublessee) as a result of any matter with respect to which the Lessor has been indemnified by the Lessee pursuant to this § 9 shall be paid over to the Lessee to the extent necessary to reimburse the Lessee for indemnification payments previously made in respect of such matter but only after the Lessor has been unconditionally indemnified in full. The indemnities arising under this paragraph shall not be construed to constitute a guarantee of the residual value or useful life of any Unit.

The Lessee agrees to cause the preparation of and delivery to the Lessor within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Lessor) any and all reports (other than income tax, gross receipts tax, or gross income tax returns) to be filed by the Lessor with any Federal, state

or other regulatory authority by reason of the ownership by the Lessor of the Units or the leasing thereof to the Lessee.

§ 10. Default. If, during the continuance of this Lease, one or more of the following events (each such event being hereinafter sometimes called an "Event of Default") shall occur:

(a) default shall be made in payment of any amount payable under this Lease, and such default shall continue for 5 days after written notice of such default from the Lessor;

(b) the Lessee shall make or permit any unauthorized assignment or transfer of this Lease or of possession of the Units, or any thereof;

(c) default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein or in the Sublease Assignment, and such default shall continue for 30 days after written notice from the Lessor to the Lessee specifying the default and demanding that the same be remedied;

(d) any representation or warranty made by the Lessee in this Lease or in any document or certificate furnished the Lessor in connection herewith or pursuant hereto shall prove to be incorrect at any time in any material respect and such condition shall continue unremedied for a period of 30 days after written notice thereof by the Lessor to the Lessee specifying the default and demanding that the same be remedied;

(e) a petition for reorganization under Title 11 of the United States Code, as now constituted or as hereafter amended, shall be filed by or against the Lessee and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease shall not have been and shall not continue to be duly assumed in writing within 90 days after

such petition shall have been filed, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as expenses of administration and obligations incurred by such trustee or trustees;

(f) any proceeding shall be commenced by or against the Lessee for any relief which includes, or might result in, any modification of the obligations of the Lessee under this Lease or the Sublease Assignment under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustments of the obligations of the Lessee hereunder and under the Sublease Assignment) and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease and the Sublease Assignment shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 75 days after such proceeding shall have been commenced; or

(g) an Event of Default set forth in § 10 of the Sublease shall have occurred; provided, however, that any default under §§ 10(a), (c) or (d) of the Sublease which, with notice or lapse of time or both, could become, or has become, an Event of Default under the Sublease, shall not be deemed to be an Event of Default under this subsection (g) if such default under the Sublease which could result, or has resulted, in an Event of Default under the Sublease is cured by the Lessee's remedying such default within 5 days, in the case of a default under such § 10(a), or 30 days, in the case of a default under such §§ 10(c) or (d), after the Lessee gives or receives notice with respect to such default;

then, in any such case, upon notice by the Lessor to the Lessee, and without any other action or consents (i) the participation of the Lessee as sublessor under the Sublease shall be terminated, and (ii) the Lessor shall be substituted for the Lessee, for all purposes, as the sublessor under the Sublease. In addition, whether or not such notice is given, the Lessor, at its option, may, in any such case:

(i) proceed by appropriate court action or actions either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof including net after-tax losses of Federal, state and local net income tax benefits to which the Lessor would otherwise be entitled under this Lease; or

(ii) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, possess, sell, operate, lease to others and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever and without any duty to account to the Lessee for such action or inaction but applying any proceeds (net of expenses as determined by the Lessor) arising therefrom against the liabilities of the Lessee herein; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee as damages for loss of a bargain and not as a penalty, whichever of the following amounts the Lessor, in its sole discretion, shall specify: (x) a sum, with respect to each Unit, equal

to the excess of the present value, at the time of such termination, of the entire unpaid balance of all rentals for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over the then present value of the rental which the Lessor reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in each case on the basis of an 12% per annum discount, compounded monthly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated or (y) an amount equal to the excess, if any, of the Casualty Value as of the rental payment date on or next preceding the date of termination over the amount the Lessor reasonably estimates to be the sales value of such Unit at such time; provided, however, that in the event the Lessor shall have sold any Unit, the Lessor, in lieu of collecting any amounts payable to the Lessor by the Lessee pursuant to the preceding clauses (x) and (y) of this subparagraph (ii) with respect to such Unit, may, if it shall so elect, demand that the Lessee pay the Lessor and the Lessee shall pay to the Lessor on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value for such Unit, as of the rental payment date on or next preceding the date of termination over the net proceeds of such sale.

In addition, the Lessee shall be liable, except as otherwise provided above, for any and all unpaid amounts due hereunder before, during or after the exercise of any of the foregoing remedies and for all reasonable legal fees and other costs and expenses incurred by reason of the occurrence of any Event of Default or the exercise of Lessor's remedies with respect thereto, including all costs and expenses incurred in connection with the return of any Unit.

The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is

not, at the time in question, prohibited by law. The Lessee hereby waives any and all existing or future claims to any offset against the rental payments due hereunder, and agrees to make such payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf.

The failure of the Lessor to exercise the rights granted it hereunder upon the occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

§ 11. Return of Units upon Default. If this Lease shall terminate pursuant to § 10 hereof, the Lessee shall upon notice from the Lessor forthwith deliver possession of the Units to the Lessor. Each Unit returned to the Lessor pursuant to this § 11 shall (i) be in the condition required by § 7 hereof, (ii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads, if applicable, or such comparable standards as may then be in effect, (iii) have attached or affixed thereto any additions, modifications and improvements considered an accession thereto as provided in § 7 hereof and have removed therefrom any such additions, modifications and improvements not considered an accession and (iv) meet the applicable rules of any governmental agency or other organization with jurisdiction. For the purpose of delivering possession of any Unit or Units to the Lessor as above required, the Lessee shall at its own cost, expense and risk:

(a) forthwith and in the usual manner (including, but not by way of limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any Unit or Units have been interchanged or which may have possession thereof to return the Unit or Units) transport or cause the Units to be transported to such point or points within the continental United States as the Lessor may reasonably designate and there assembled;

(b) place such Units upon such storage tracks of the Lessee or the Sublessee within the continental United States as the Lessor reasonably may designate or, if such storage tracks are not available, upon

such other storage tracks within the continental United States as the Lessor may reasonably designate;

(c) permit the Lessor to store such Units on such tracks at the risk of the Lessee without charge for rent, insurance or storage until such Units have been sold, leased or otherwise disposed of, but not in any event for longer than 270 days; and

(d) cause such Units to be moved to such point or points as shall be reasonably designated by the Lessor upon any sale, lease or any disposal of all or any of the Units.

The assembling, delivery, storage, insurance and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store, insure and transport the Units. During any storage period, the Lessee will, at its own cost and expense, maintain and keep the Units in the condition required by § 7 hereof, maintain the insurance on the Units required by § 7 hereof and will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser or lessee of any such Unit, to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser or lessee, the rights of inspection granted under this sentence.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this § 11, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of such Unit to demand and take possession of such Unit in the name and on behalf of the Lessee from whomsoever shall be in possession of such Unit at the time.

§ 12. Assignment; Possession and Use. This Lease shall be assignable in whole or in part by the Lessor without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor and no greater obligations will be imposed on the Lessee on account of any such assignment. All the rights of the Lessor hereunder (including, but not limited to, the rights under §§ 6, 7, 10 and 17 and the rights to receive the rentals payable under this Lease) shall inure to the benefit of the Lessor's assigns (including the partners or any beneficiary of any such assignee if such assignee is a partnership or a trust, respectively).

This Lease and the Lessee's right and interest herein, and in the option to renew this Lease and in the rights, obligations and the right of first offer on the Units as herein provided shall be completely prior to each and every deed of trust or mortgage or other security instrument of the Lessor and each such instrument, whether heretofore, now or hereafter in existence shall in all respects be subject and subordinate to this Lease and the Lessee's right and interest herein and in such renewals, rights, obligations and options.

So long as no Event of Default exists under this Lease, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease, but the Lessee shall not assign or transfer its leasehold interest under this Lease in the Units or any of them, except for the Sublease which shall be assigned to the Lessor. The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units except pursuant to and as permitted by the Sublease.

The Lessee agrees to use or cause to be used the Units solely within the United States of America (except as permitted under the Sublease) and solely for the transportation of bulk agricultural commodities and plastic pellets. The Lessee shall use or cause to be used each Unit in such a manner that for any period relevant to the Investment Credit or the Depreciation Deduction (as such terms are defined in § 17 hereof) during the term of this Lease each Unit will constitute "section 38 property" within the meaning of Section 48(a) of the Code (as herein-

after defined) and will not be used predominantly outside the United States within the meaning of said Section 48(a) (or any exception thereto). The Sublease permitted hereunder and any sublease or arrangement for usage permitted thereunder shall be subject to all the terms and conditions of this Lease and the rights and remedies of the Lessor under this Lease in respect of the Units covered by such sublease or arrangement for usage upon the occurrence of an event of default thereunder or an Event of Default hereunder and no such sublease or arrangement for usage shall relieve the Lessee of its obligations to the Lessor under this Lease. All costs and expenses (including reasonable fees and disbursements of counsel to the Lessor) incident to any sublease or arrangement for usage permitted under the Sublease shall be borne by the Lessee.

Nothing in this § 12 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in all but not less than all the Units or possession of all but not less than all the Units to any corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have duly assumed the obligations of the Lessee hereunder) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety or, with the prior written consent of the Lessor, property of the Lessee related to the operation of the Units or a portion thereof; provided, however, that (i) such assignee or transferee will not, upon the effectiveness of such merger, consolidation or acquisition, be in default under any provision of this Lease and (ii) in the case of any such acquisition of less than all or substantially all the property of the Lessee, such acquisition shall not alter in any way the Lessee's obligation to the Lessor hereunder which shall be and remain those of a principal and not a surety.

The Lessee, at its own expense, will as soon as possible cause to be duly discharged any lien, charge, security interest or other encumbrance (except any sublease as aforesaid and other than an encumbrance resulting from claims against the Lessor not related to the ownership or leasing of the Units) which may during the term hereof (including any renewal hereof) or during any period which the Lessee is required to insure, maintain or store the Units at its expense and risk pursuant to §§ 11 and 14

hereof be imposed on or with respect to any Unit, including any accession thereto, or the interest of the Lessor or the Lessee therein; except that this covenant will not be breached by reason of levies, in each case not due and delinquent, or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent; and, furthermore, the Lessee shall be under no obligation to discharge any such lien, charge, security interest or encumbrance so long as it is contesting the same in good faith and by appropriate legal proceedings and the failure to discharge the same does not, in the opinion of the Lessor, adversely affect the title, property or rights of the Lessor hereunder.

§ 13. Renewal and Right of First Offer. Provided that this Lease has not been earlier terminated, no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) exists hereunder and the Sublessee has exercised its option to renew the Sublease pursuant to § 13 thereof, the Lessee may by written notice delivered to the Lessor not less than 6 months nor more than 12 months prior to the end of the original term of this Lease elect to extend the term of this Lease in respect of all but not fewer than all of the Units then covered by this Lease, for an additional five-year period commencing on the scheduled expiration of the original term of this Lease. The rental payable shall be the Fair Market Rental Value of such Units as of the end of the original term of this Lease. Rentals under the extended term shall be payable, in arrears, in monthly payments on the days of the month on which such rentals were payable for the Units in each year of the original term.

Provided that this Lease has not been earlier terminated and no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) exists hereunder and, in the case of the original term of this Lease, the term of this Lease is not to be extended pursuant to the preceding paragraph, the Lessor shall notify the Lessee not later than 150 days prior to the end of the original or extended term of this Lease of the Lessor's intention to retain title to the Units then subject to this Lease or to sell any Units to third parties at the expiration of such term. If the Lessor shall have elected to sell any Units, the Lessor shall first offer such Units for sale to the Lessee at

their Fair Market Sales Value. The Lessee shall notify the Lessor not later than 120 days prior to the end of such term of its intention to purchase such Units or cause the Sublessee to purchase such Units. Upon receipt of such notice by the Lessor the Lessee shall be irrevocably committed to purchase such Units at the Fair Market Sales Value or cause the Sublessee to purchase such Units at the Fair Market Sales Value. If the Lessor has not received notice of such intent on or before such 120th day, the Lessor shall no longer be obligated to offer such Units to the Lessee.

"Fair Market Rental Value" for the purposes of this § 13 shall be determined on the basis of, and shall be equal in amount to, the value which would obtain in an arm's-length transaction between an informed and willing lessee-user (other than a lessee currently in possession) and an informed and willing lessor under no compulsion to lease and, in such determination, the cost of removal from the location of current use shall not be a deduction from such value.

"Fair Market Sales Value" for the purposes of this § 13 shall be determined on the basis of, and shall be equal in amount to, the value which would obtain in an arm's-length transaction between an informed and willing buyer-user (other than (i) a lessee currently in possession or (ii) a used equipment dealer) and an informed and willing seller under no compulsion to sell and, in such determination, costs of removal from the location of current use shall not be a deduction from such value.

If, after 30 days from the giving of notice by the Lessee of the Lessee's election to extend the term of this Lease, the Lessor and the Lessee are unable to agree on a determination of the Fair Market Rental Value or, if, after 30 days from the giving of notice by the Lessee of its intention to purchase the Units offered, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Sales Value of such Units, for the purposes of this § 13 such value shall be determined in accordance with the foregoing definition by a qualified independent Appraiser. The term "Appraiser" shall mean such independent appraiser as the Lessor may select with the approval of the Lessee, or failing such approved selection, a panel of three independent appraisers, one of whom shall be selected by the Lessor, the second by the Lessee and

the third designated by the first two so selected. The Appraiser shall be instructed to make such determination within a period of 30 days following appointment, and shall promptly communicate such determination in writing to the Lessor and the Lessee. The determination so made shall be conclusively binding upon both the Lessor and the Lessee and each party hereto consents and agrees not to assert any judicial or other procedures. The expenses and fees of Appraiser shall be equally borne by the Lessee and the Lessor.

§ 14. Return of Units upon Expiration of Term.

The Lessor intends to retain the Units for re-lease at the expiration of the term of this Lease. As soon as practicable on or after the expiration of the original or extended term of this Lease with respect to any Unit not purchased by the Lessee, the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of such Unit to the Lessor upon such storage tracks of the Lessee or the Sublessee or, if such storage tracks are not available, upon such other storage tracks as the Lessor may reasonably designate within 15 days after receipt of written notice from the Lessee and the Sublessee that such storage tracks are not available, or, in the absence of such designation, as the Lessee may select, and permit the Lessor to store such Unit on such tracks for a period not exceeding 180 days following notification to the Lessor by the Lessee that all the Units have been assembled and delivered for storage and transport the same, at any time within such 180-day period, to any reasonable place on lines of railroad, or to any connecting carrier for shipment, all as directed by the Lessor, the movement and storage of such Units to be at the expense and risk (including insurance) of the Lessee; provided, however, that for any period after 90 days, to and including the 180th day, following such notification storage shall be at the expense and risk of the Lessor (and the Lessee agrees that its charge to Lessor for storage shall be reasonable in amount and will include the cost of insurance provided by Lessee). During any such storage period the Lessee will maintain and keep each Unit in good operating order, repair and condition, maintain the insurance required by § 7 hereof and permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser or lessee of such Unit, to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence of

the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser or lessee, the rights of inspection granted under this sentence; provided further, however, that reasonable costs of maintenance and insurance for any period after 90 days following such notification shall be borne by the Lessor. The assembling, delivery, storage, insurance and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store, insure and transport the Units. Each Unit returned to the Lessor pursuant to this § 14 shall (i) be in the condition required by § 7 hereof, (ii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads, if applicable, or such comparable standards as may then be in effect, (iii) have attached or affixed thereto any additions, modifications and improvements considered an accession thereto as provided in § 7 hereof and have removed therefrom any such additions, modifications and improvements not considered an accession and (iv) meet applicable rules of any governmental agency or other organization with jurisdiction. In the event any Unit is not assembled, delivered and stored, as hereinabove provided, within 60 days after the expiration or termination of the original or extended term of this Lease, the Lessee shall pay to the Lessor an amount equal to 1/30 of the next preceding rental payment applicable to such Unit for each day until such Unit is assembled, delivered and stored; such payment shall not affect the obligation of the Lessee to redeliver the Units pursuant to this § 14.

§ 15. Opinions of Counsel and Other Documents.

On or prior to the first date for delivery of any Units pursuant to the Purchase Agreement, there shall be delivered to the Lessor, five counterparts of the following documents, dated not more than 10 days prior to such delivery date:

- (i) the written opinion of Messrs. Wolf, Block, Schorr and Solis-Cohen, special counsel for the Lessee and the Sublessee, addressed to the Lessor, in scope and substance satisfactory to the Lessor and its counsel, to the effect that:

(A) each of the Lessee and the Sublessee is a corporation duly incorporated, validly existing and in good standing under the laws of the jurisdiction of its incorporation, with corporate power to own its properties and to carry on its business as now conducted, and to enter into its Documents (as hereinafter defined) and is duly qualified to do business and is in good standing in such other jurisdictions in which the nature of its business requires such qualification;

(B) this Lease and the Sublease Assignment have been duly authorized, executed and delivered by the Lessee and constitute legal, valid and binding agreements of the Lessee, enforceable in accordance with their terms and the Assignment, the Sublease, and the Consent have been duly authorized, executed and delivered by the Sublessee and constitute legal, valid and binding agreements of the Sublessee enforceable in accordance with their terms;

(C) assuming that the Lease, the Sublease, the Assignment and the Sublease Assignment have been duly filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303, no further act, filing, recording, deposit, refiling or redeposit (or giving of notice) with any other Federal, state or local government or agency thereof is necessary in order to fully protect the interest of the Lessor in and to the Units in the United States of America;

(D) no approval is required from any Federal or Indiana governmental or public body or authority with respect to the entering into or performance of its obligations under its Documents by the Lessee and no approval is required from any Federal or Pennsylvania governmental or public body or authority with respect to the entering into or performance of its obligations under its documents by the Sublessee;

(E) the entering into and performance of its obligations under its Documents by the Lessee or the Sublessee will not conflict with, result in any breach of, or constitute a default under the

Articles of Incorporation or by-laws of the Lessee or the Sublessee or any indenture, mortgage, deed of trust, bank loan or credit agreement or other agreement or instrument of which such counsel is aware after due inquiry to which the Lessee or the Sublessee or any of their subsidiaries is a party or by which they may be bound;

(F) there is no mortgage, deed of trust, or other such security interest, to the knowledge of said counsel after due inquiry, which now covers or affects, or which, by its present terms, may hereafter cover or affect, any property or interests therein of the Lessee or the Sublessee or any of their subsidiaries, and which now attaches or, by its present terms, hereafter will attach to the Units or in any manner affects or will affect adversely the Lessor's right, title and interest therein; provided, however, that such liens may attach to the leasehold interest of the Lessee hereunder and of the Sublessee under the Sublease in and to the Units;

(G) neither the execution and delivery by the Lessee or the Sublessee of its Documents nor the consummation of the transactions therein contemplated nor the fulfillment of, or compliance with, the terms and provisions thereof will, to the knowledge of said counsel after due inquiry, conflict with, or result in a breach or violation of, any of the terms, conditions or provisions of any law, regulation, rule, order, award, injunction or decree of any court or governmental instrumentality or arbitrator which is applicable to it; and

(H) to the knowledge of such counsel after due inquiry, (x) there is no proceeding pending or threatened against or affecting the Lessee or the Sublessee in any court or before any governmental authority or arbitration board or tribunal which involves the possibility of materially and adversely affecting the properties or business of the Lessee or the Sublessee or the ability of the Lessee or the Sublessee to perform their obligations under the Documents, and (y) neither

the Lessee nor the Sublessee is in default with respect to any order, judgment or award of any court, governmental authority or arbitration board or tribunal which is applicable to it;

(ii) the written opinion of counsel for the Builder, addressed to the Lessor, in scope and substance satisfactory to the Lessor and its counsel, to the effect that:

(A) the Builder is a duly organized and existing corporation in good standing under the laws of its jurisdiction of incorporation and has the power and authority to own its properties and to carry on its business as now conducted and to execute, deliver and perform its obligations under the Purchase Agreement and the Assignment; and

(B) the Purchase Agreement and the Assignment have been duly authorized, executed and delivered by the Builder and are legal and valid instruments binding upon the Builder and enforceable against the Builder in accordance with their terms;

(iii) the written opinion of counsel for the Lessor, addressed to the Lessee and the Sublessee, to the effect that:

(A) the Lessor is a corporation duly incorporated and validly existing, in good standing under the laws of the jurisdiction of its incorporation, with corporate power to enter into this Lease, the Assignment, the Sublease Assignment and the Consent; and

(B) this Lease, the Assignment, the Sublease Assignment and the Consent have been duly authorized, executed and delivered by the Lessor and constitute legal, valid and binding agreements of the Lessor, enforceable in accordance with their respective terms.

In giving the opinions specified in subparagraphs (i)B, (ii)B and (iii)B of this § 15, counsel may qualify any opinion to the effect that any agreement is a legal,

valid and binding instrument enforceable in accordance with its terms by a general reference to limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and to the effect that such enforceability is subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law);

(iv) a certification of insurance coverage from the Lessee's independent broker or brokers or insurance carrier evidencing maintenance of the insurance required by § 7 hereof;

(v) a certificate of an officer of the Lessee and an officer of the Sublessee, to the effect that (A) no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) or a default under the Documents has occurred and is continuing, (B) the respective representations and warranties of the Lessee and the Sublessee contained in this Lease, the Sublease and the Consent are true and correct as of the date of such certificate with the same effect as if made on such date, (C) except as set forth in a letter from the President of the Lessee to the Lessor dated December 23, 1980, there has not been any material adverse change in the assets, liabilities, business or condition (financial or otherwise) of the Lessee or the Sublessee since the date of the last audited financial statements of the Lessee furnished to the Lessor pursuant to § 19(a)J hereof, and (D) none of the Units have been or will be placed in service prior to delivery and acceptance of such Units under this Lease and that the original use of such Units will commence with the Lessor; and

(vi) such other documents as the Lessor may reasonably request.

For the purposes of this § 15 and § 19 hereof, this Lease, the Assignment, the Sublease, the Sublease Assignment and the Consent are collectively called the "Documents" and any Document to which any party or parties hereto or to the Assignment is called "its Documents".

§ 16. Recording. The Lessee, at its own expense, will cause this Lease, the Assignment, the Sublease and the Sublease Assignment to be filed with the Interstate Commerce Commission in accordance with 49 U.S.C. § 11303. The Lessee will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record (and will refile, reregister, deposit and redeposit or rerecord whenever required) any and all further instruments required by law or reasonably requested by the Lessor for the purpose of proper protection, to its satisfaction, of the Lessor's interest in the Units, or for the purpose of carrying out the intention of this Lease, the Assignment, the Sublease, the Sublease Assignment and the Consent; it being specifically understood that no filing under the Uniform Commercial Code of any state will be made unless the Lessor is advised by counsel that such filing is required for the proper protection of the Lessor's interest in the Units, or for the purpose of carrying out the intention of this Lease, the Assignment, the Sublease, the Sublease Assignment and the Consent; and the Lessee will promptly furnish to the Lessor evidences of all such filing, registering, depositing or recording, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Lessor. This Lease, the Assignment, the Sublease and the Sublease Assignment shall be filed with the Interstate Commerce Commission prior to the delivery and acceptance hereunder of any Unit.

§ 17. Federal Income Taxes. The Lessor, as the owner of the Units, shall be entitled to such deductions, credits and other benefits as are provided by the Internal Revenue Code of 1954, as amended to the date hereof (the "Code"), to an owner of property, including, without limitation, (A) the depreciation deduction with respect to the Units pursuant to Section 167 of the Code as in effect on the date hereof with respect to each Unit (a) commencing in the taxable year of the Lessor during which the date of delivery (the "Delivery Date") with respect to such Unit occurs and calculated on the assumption that each Unit is placed in service on the Delivery Date with respect to such Unit, (b) utilizing a 12-year depreciable life, which is the lower limit listed in Revenue Procedure 77-10 for property in Asset Guideline Class No. 00.25, in accordance with the Class Life Asset Depreciation Range System under Section 167(m) of the Code as in effect on the date hereof, (c) employing initially the double declining balance method

of depreciation and switching, without the consent of the Commissioner of Internal Revenue, to the sum of the years-digits method of depreciation when most beneficial to the Lessor, (d) utilizing the modified half-year convention or the half-year convention as selected by the Lessor in any taxable year pursuant to Treas. Regs. § 1.167(a)-11(c)(2)(ii) and (iii), (e) including in the basis of each Unit 100% of the Purchase Price thereof and any additional amounts properly includible under Section 1012 of the Code as in effect on the date hereof and (f) taking into account, for each Unit, an estimated gross salvage value of 10% of the Purchase Price thereof, which will be reduced by 10% of the Purchase Price thereof pursuant to Section 167(f) of the Code as in effect on the date hereof (the "Depreciation Deduction"), and (B) the investment credit pursuant to Section 38 and related sections of the Code as in effect on the date hereof, which, for each Unit, shall be equal to 10% of the sum of (a) 100% of the Purchase Price with respect to such Unit and (b) 100% of any additional amounts properly includible in the basis of such Unit under Section 1012 of the Code as in effect on the date hereof and shall be available based on the assumption that such Unit is placed in service by the Lessor on the Delivery Date with respect to such Unit (the "Investment Credit").

The Lessee agrees that neither it nor any corporation controlled by it, in control of it, or under common control with it, directly or indirectly, will at any time take any action or file any returns or other documents inconsistent with the foregoing paragraph and that each of such corporations will file such returns, take such actions and execute such documents as may be reasonable and necessary to facilitate accomplishment of the intent hereof unless (i) the filing of such returns, taking of such actions or execution of such documents is precluded by acts, omissions or misrepresentations of Lessor or any other third party or (ii) the filing of such returns, or taking of such actions or execution of such documents is precluded by a final, unappealable judgment or decree or other action of a court of administrative agency or by a change in the Code or regulations thereunder such that, in the case of clause (i) and clause (ii), in the opinion of nationally recognized tax counsel reasonably acceptable to Lessor the filing of such returns, taking of such actions or execution of such documents would subject Lessee to a penalty for fraud or negligence. The Lessor intends that any Federal income tax returns filed by the affiliated group of which it is a

member will be consistent with the provisions set forth in the preceding paragraph, unless such consistency is precluded by law or regulation or by acts, omissions or misrepresentations of Lessee or any other third party.

Notwithstanding anything to the contrary contained in § 12 hereof, the Lessee represents and warrants that (i) all the Units constitute property the full Purchase Price of which qualifies for the Investment Credit under Section 38 and related Sections of the Code; (ii) at the time the Lessor becomes the owner of the Units, the Units will constitute "new section 38 property" within the meaning of Section 48(b) of the Code and at the time the Lessor becomes the owner of the Units, the Units will not have been used by any person so as to preclude "the original use of such property" within the meaning of Sections 48(b) and 167(c)(2) of the Code from commencing with the Lessor; and (iii) each Unit will be placed in service for purposes of Sections 46, 48 and 167 of the Code on such Unit's Delivery Date.

Lessee covenants and agrees to maintain such records as shall be reasonably necessary and sufficient to verify the factual basis for the matters referred to in this § 17 and will within 30 days of written request therefor make copies of such records available for inspection by the Lessor or any authorized agent of the Lessor.

If the Lessor, in computing its Federal income tax liability, shall lose the benefit of, lose the right to claim or suffer recapture with respect to, or there shall be disallowed, all or any portion of the Investment Credit with respect to any Unit by reason of any act or failure to act (including, without limitation, any act or failure to act in connection with the income tax returns of the Lessee or the Sublessee or the income tax returns of the affiliated group, within the meaning of Section 1504 of the Code, of which the Lessee or the Sublessee is a member), regardless of whether any such act or failure to act is permitted or required by this Lease or any transactions contemplated by this Lease, any inaccuracy of any representation or warranty or any breach of any agreement, covenant or warranty contained in this Lease, the Assignment, the Sublease, the Sublease Assignment or the Consent, on the part of the Lessee or the Sublessee, any affiliate of either, any sublessee or other user of any Unit or the manufacturer, supplier or builder of any Unit or any sale or disposition of any Unit or any interest therein after an Event of Default shall have occurred or any action of the Lessor pursuant to § 10 hereof (except as provided below in this § 17), or if the Lessor would otherwise lose, or have

recaptured or disallowed, any such portion as a result of any such cause except for its failure also to have sufficient liability for tax against which to credit such portion, Lessee shall pay to the Lessor an amount which shall be equal to the portion of the Investment Credit so lost, recaptured or disallowed (or which would have been so lost, recaptured or disallowed except for any such failure to have sufficient liability for tax) and the amount of any interest, penalties or additions to tax (including any interest, penalties or additions to tax because of underpayment of estimated tax) which may be payable to the United States of America by the Lessor in connection with such loss, recapture or disallowance, which amounts shall be payable at such time as the tax and interest, penalties or additions to tax attributable to such loss, recapture or disallowance are payable (or would have been payable), but not sooner than 30 days after receipt by Lessee of written notice from the Lessor; provided, however, that Lessee shall not be liable for the payment of any such amount if and to the extent that such loss, recapture or disallowance would not have resulted but for the occurrence of a Casualty Occurrence whereby Lessee is required pursuant to § 7 hereof to pay, and shall pay in full, the Casualty Value for such Unit and all other amounts required to be paid under said Section.

Anything herein to the contrary notwithstanding, (i) if the Casualty Value has been paid with respect to any Unit pursuant to this Lease, the indemnity otherwise payable under this § 17 with respect to the Investment Credit on such Unit shall be reduced by any amount included in such Casualty Value as of the date of computation on account of the loss of such Investment Credit, and (ii) if Lessee pays an indemnity under this § 17 with respect to the Investment Credit on any Unit, appropriate adjustment shall be made to the Casualty Value percentages with respect to such Unit to reflect such payment.

If the Lessor, in computing its Federal, state or local taxable income for any taxable year (or portion thereof), shall lose the benefit of, lose the right to claim or suffer recapture with respect to, or there shall be disallowed, all or any portion of the Depreciation Deduction with respect to any Unit by reason of any act or failure to act (including, without limitation, any act or failure to act in connection with the income tax returns of the Lessee or the Sublessee or the income tax returns of the affiliated group, within the meaning of Section 1504 of the Code, of which the Lessee or the Sublessee is a member), regardless of whether any such act or failure to act is permitted or required by this Lease or any transac-

tions contemplated by this Lease, any inaccuracy of any representation or warranty or any breach of any agreement, covenant or warranty contained in this Lease, the Assignment, the Sublease, the Sublease Assignment or the Consent, on the part of the Lessee or the Sublessee, any affiliate of either, any sublessee or other user of any Unit or the manufacturer, supplier or builder of any Unit or any sale or disposition of any Unit or any interest therein after an Event of Default shall have occurred or any action of the Lessor pursuant to § 10 hereof (except as provided below in this § 17), or if the Lessor would otherwise lose, or have recaptured or disallowed, any such portion as a result of any such cause except for its failure also to have sufficient taxable income against which to deduct such Depreciation Deduction, the Lessee shall pay to the Lessor, in respect of such loss, recapture or disallowance, an amount which shall be equal to the sum of (A) any additional income taxes required to be paid (or which would have been payable except for any such failure to have sufficient taxable income) to the United States of America or to any state or local taxing jurisdiction by the Lessor with respect to such year by reason of such loss, recapture or disallowance of such Depreciation Deduction and (B) the amount of any interest, penalties or additions to tax (including any interest, penalties or additions to tax because of underpayment of estimated tax) which may be payable to the United States of America or to any state or local taxing jurisdiction by the Lessor in connection with such loss, recapture or disallowance, which amount shall be payable at such time as the tax and interest, penalties or additions to tax attributable to such loss, recapture or disallowance are payable (or would have been payable), but not sooner than 30 days after receipt by Lessee of written notice from the Lessor; provided, however, that Lessee shall not be liable for payment of any such amount if and to the extent that such loss, recapture or disallowance would not have resulted but for the occurrence of any of the following events:

(i) a Casualty Occurrence shall occur whereby Lessee is required pursuant to § 7 hereof to pay, and shall pay in full, the Casualty Value for such Unit and all other amounts required to be paid under said Section; or

(ii) a termination of this Lease pursuant to Section 7 hereof shall occur with respect to such Unit whereby Lessee is required to pay, and shall pay in full, amounts determined by reference to the Economic Obsolescence Value for the Units and all of the

amounts required to be paid under said Section.

If the Lessor, as the result of such loss, recapture or disallowance of the Depreciation Deduction with respect to any year, as the result of any inclusion in gross income of any Additional Expenditures (as hereinafter defined) or as the result of any early payment by Lessee referred to in the thirteenth paragraph of this § 17, in each case, under circumstances which require Lessee to indemnify the Lessor with respect to such loss, recapture, disallowance, Additional Expenditure or early payment, shall actually realize Federal income tax savings which it would not have realized but for such loss, recapture, disallowance, Additional Expenditure or early payment with respect to any subsequent year, the Lessor shall pay Lessee an amount equal to the sum of such Federal income tax savings actually realized by the Lessor plus any tax savings actually realized under the laws of any Federal, state or local government or taxing authority, as the result of any payment made pursuant to this sentence, if and to the extent such Federal income or other tax savings are actually realized, within 30 days after returns are filed or a refund is received, as the case may be, reflecting such actual realization; provided, however, that (i) such sum shall not exceed the excess of the amounts previously paid by Lessee to the Lessor pursuant to this § 17 with respect to such loss, recapture, disallowance, Additional Expenditure or early payment over the amounts previously paid by the Lessor to Lessee pursuant to this § 17, (ii) such sum shall not be payable before such time as Lessee shall have made all payments or indemnities then due pursuant to this § 17, (iii) no Event of Default (or other event which with notice or lapse of time or both would constitute an Event of Default) shall have occurred and be continuing, (iv) in computing any tax savings actually realized by the Lessor for purposes of this paragraph, the Lessor shall be deemed first to have utilized all deductions and credits available to it otherwise than by reason of any such loss, recapture, disallowance, Additional Expenditure or early payment or payment to Lessee, (v) any loss, recapture or disallowance of any such tax savings shall be treated as a loss subject to the provisions of this § 17 and (vi) the calculation of any amounts payable pursuant to this paragraph shall be based on the same assumptions as to tax rates set forth in the second sentence of the fourteenth paragraph of this § 17.

If for any reason whatsoever (other than any use or arrangement for use permitted by this Lease or the Sublease) the Lessor shall not be entitled to treat each item of income, deduction and credit with respect to the transactions contemplated by this Lease as having a United States source for any taxable year, Lessee shall pay to the Lessor an amount which shall be equal to the sum of (A) the excess of the foreign tax credit which would have been allowed to the Lessor with respect to the taxable year and all prior taxable years if the Lessor had not participated in the transactions contemplated by this Lease over the foreign tax credit actually allowed to the Lessor and (B) the amount of any interest, penalties or additions to tax (including any interest, penalties or additions to tax because of underpayment of estimated tax) payable by the Lessor as a result of such loss of foreign tax credit, which amount shall be payable at such time as the tax and interest, penalties or additions to tax attributable to such loss of foreign tax credit are payable, but not sooner than 30 days after receipt by the Lessee of written notice from the Lessor.

In the event a claim shall be made by the Internal Revenue Service which, if successful, would result in a Disallowance (which term, for the purposes of the remainder of this § 17, means a loss of all or any portion of the Investment Credit or the Depreciation Deduction with respect to any Unit) under circumstances which would require Lessee to indemnify the Lessor for such Disallowance, the Lessor hereby agrees to take such action in connection with contesting such claim as Lessee shall reasonably request in writing from time to time, provided that (i) within 30 days after notice by the Lessor to Lessee of such claim, Lessee shall request that such claim be contested, (ii) the Lessor shall control all proceedings taken in connection with such contest and, at its sole option, may pursue or forego any and all administrative appeals, proceedings, hearings and conferences with the Internal Revenue Service in respect of such claim and may, at its sole option, either pay the tax claimed and sue for a refund or contest the claim in any permissible forum considering, however, in good faith such request as Lessee shall make concerning the most appropriate forum in which to proceed, (iii) prior to taking such action, Lessee shall have furnished the Lessor with an opinion of independent tax counsel agreed upon by Lessee and the Lessor to the effect that a meritorious defense exists to such claim, (iv) Lessee shall have indemnified the Lessor in a manner satisfactory

to it for any liability or loss which the Lessor may incur as the result of contesting such claim and shall have agreed to pay the Lessor on demand all costs and expenses which the Lessor may incur in connection with contesting such claim, including, without limitation, (A) reasonable attorneys', accountants' and investigatory fees and disbursements, and (B) the amount of any interest, penalty or fine which may ultimately be payable as the result of contesting such claim (to the extent not otherwise indemnified under this § 17), and (v) if the Lessor shall determine to pay the tax claimed and sue for a refund, Lessee shall have paid to the Lessor the amounts payable pursuant to this § 17 hereof with respect to the Investment Credit or the Depreciation Deduction. In the case of any such claim referred to above, the Lessor agrees promptly to notify Lessee in writing of such claim, agrees not to make payment of such claim for at least 30 days after the giving of such notice and agrees to give to Lessee any relevant information relating to such claim which may be particularly within the knowledge of the Lessor, and otherwise to cooperate with Lessee in good faith in order to contest effectively any such claim and, if and to the extent agreeable to the Lessor, to permit Lessee to participate in the proceedings relating to such claim. Nothing contained in this § 17 shall require the Lessor to contest a claim which it would otherwise be required to contest pursuant to this § 17 if the Lessor waives the payment by Lessee of any amount that might otherwise be payable by Lessee under this § 17 with respect to the Investment Credit or the Depreciation Deduction by way of indemnity in respect of such claim.

If, after actual receipt by the Lessor of an amount paid by Lessee and attributable to a Disallowance, the extent of such Disallowance shall be established by the final judgment or decree of a court or administrative agency having jurisdiction thereof or a settlement with the consent of Lessee, the Lessor shall, within 30 days, pay to Lessee all or the portion of any refund received by the Lessor with respect to such Disallowance (together with any interest paid thereon by the taxing authority) plus simple interest at the rate which is applicable under Section 6621 of the Code from time to time from the date of actual collection by the Lessor of such refund (and any such interest thereon) to the date of payment by the Lessor to Lessee hereunder. Notwithstanding the foregoing, the Lessor shall not be required to make any payment hereunder

(i) to the extent such payment (minus any such interest attributable thereto not previously reimbursed by Lessee) would exceed the amount previously paid by Lessee to the Lessor with respect to the Disallowance giving rise to such refund, (ii) before such time as Lessee shall have made all payments or indemnities then due pursuant to this § 17 and (iii) so long as an Event of Default (or other event which with notice or lapse of time or both would constitute an Event of Default) shall have occurred and be continuing.

If for any reason whatsoever any amount in respect of any replacement, alteration, modification, substitution, improvement and/or addition to any Unit or any expenditure by Lessee or any of its affiliates, or by any sublessee of any thereof or by any other person which any of the foregoing shall have permitted to use any Unit, in respect of any Unit or this Lease or any agreement contemplated hereby (hereinafter called "Additional Expenditures") made by any of the foregoing under and pursuant to the terms of this Lease or otherwise is required to be included in the gross income of the Lessor for Federal, state or local income tax purposes at any time prior to the time such Unit is disposed of in a taxable transaction, Lessee shall pay to the Lessor in respect of such inclusion an amount which shall be equal to any additional taxes required to be paid by the Lessor and the amount of any interest, penalties or additions to tax which may be payable by the Lessor in connection with such inclusion, which amounts shall be payable at such time as the tax and interest, penalties or additions to tax are payable, but not sooner than 30 days after receipt by Lessee of written notice from the Lessor; provided, however, that in the case of any Additional Expenditure (which the Lessee was required to make pursuant to the terms of this Lease) required to be included in the gross income of the Lessor not earlier than the last day of the term of this Lease (including any renewals hereof), the indemnification set forth in this paragraph shall extend only to the excess of the amount so included over the additional then fair market value of the applicable Unit attributable to such Additional Expenditure compared to the fair market value such Unit would have had had such Additional Expenditure not been made.

In the event that Lessee shall pay all or any portion of any installment of rent prior to the date upon which such payment is herein required to be made, Lessee

shall pay to the Lessor an amount which shall be equal to the excess of (A) the taxes and other charges payable by the Lessor in the taxable year of the receipt of such installment of rent over (B) the taxes and other charges that would have been payable by the Lessor in such year had such installment of rent been paid by Lessee on the date upon which such payment is herein required to be made.

Notwithstanding any other provision of this § 17, to the extent Lessee is required to make any payment under this § 17, Lessee agrees that its payment or indemnity obligation shall also include any amount necessary to hold the Lessor harmless on an after-tax basis from all taxes required to be paid by Lessor with respect to such payment or indemnity under the laws of any Federal, state or local government or taxing authority, or under the laws of any foreign government or taxing authority. Whenever any payment is to be made by Lessee under this § 17 and it is necessary in calculating the amount of such payment to compute the amount of any liability for Federal, state or local tax imposed on or measured by the net income of the Lessor, such computation shall be based on the assumption that such taxes are payable at the highest marginal statutory rates applicable to taxpayers having the same taxpayer status as Lessor for the taxable year to which such taxes relate.

All amounts due to the Lessor under this § 17 shall bear interest at the rate of 18% per annum from the date of payment by the Lessor of any tax and interest to the date the Lessee shall reimburse the Lessor for such amounts in accordance with the provisions of this § 17.

The indemnity contained in this § 17 shall survive the expiration or other termination of this Lease. This remedy shall be in addition to all other remedies in favor of the Lessor existing in this Lease or at law or in equity. Lessee's obligations under this § 17 shall be those of a primary obligor whether or not the Lessor is also indemnified with respect to the same matter by any other person; provided that, if no Event of Default (or event which after notice or lapse of time or both would become an Event of Default) has occurred and is continuing, Lessee's obligations under this § 17 shall be reduced by such indemnification actually and unconditionally received by Lessor.

For purposes of this § 17, the term "Lessor" shall include (i) C.I.T. Financial Services, Inc., and (ii) any successor to C.I.T. Financial Services, Inc., and the affiliated group which files a consolidated Federal or state income tax return which includes the Lessor shall be

deemed to be the Lessor where the income tax liability of the Lessor or the realization of an item of income, gain, deduction or credit in connection with the determination thereof is an issue.

§ 18. Interest on Overdue Rentals. Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay, to the extent legally enforceable, an amount equal to 18% per annum of the overdue rentals and other obligations for the period of time during which they are overdue or such lesser amount as may be legally enforceable. Interest hereunder shall be determined on the basis of a 360-day year of 12 30-day months.

§ 19. Representations and Warranties.

(a) The Lessee represents and warrants as follows:

(A) it is a corporation duly incorporated, validly existing and in good standing under the laws of the jurisdiction of its incorporation with corporate power to own its properties and to carry on its business as now conducted, and to enter into its Documents and is duly qualified to do business and is in good standing in such other jurisdictions in which the nature of its business requires such qualification;

(B) its Documents have been duly authorized, executed and delivered by it and constitute legal, valid and binding agreements, enforceable in accordance with their respective terms;

(C) no approval is required from any governmental or public body or authority with respect to the entering into or performance of its obligations under its Documents;

(D) the entering into and performance of its obligations under its Documents will not conflict with, result in any breach of, or constitute a default under its Articles of Incorporation or by-laws or any indenture, mortgage, deed of trust, bank loan or credit agreement or other agreement or instrument to which it or any of its subsidiaries is a party or by which they may be bound;

(E) no mortgage, deed of trust, or other lien of any nature whatsoever which now covers or affects, or which may hereafter cover or affect, any of its property or interests therein or of any of its subsidiaries, now attaches or hereafter will attach to the Units or in any manner affects or will affect adversely the Lessor's right, title and interest therein; provided, however, that such liens may attach to the leasehold interest of the Lessee hereunder and of the Sublessee under the Sublease in and to the Units;

(F) neither the execution and delivery by it of its Documents nor the consummation of the transactions therein contemplated nor the fulfillment of, or compliance with, the terms and provisions thereof will conflict with, or result in a breach or violation of, any of the terms, conditions or provisions of any law, regulation, rule, order, award, injunction or decree of any court or governmental instrumentality or arbitrator;

(G) there is no proceeding pending or threatened against or affecting it in any court or before any governmental authority or arbitration board or tribunal which involves the possibility of materially and adversely affecting its properties, business, prospects, profits or condition (financial or other) or its ability to perform its obligations under its Documents, it is not in default with respect to any order, judgment or award of any court, governmental authority or arbitration board or tribunal;

(H) it is not in default in the payment of principal of or interest on any indebtedness for borrowed money or for the deferred purchase price of real or personal property and no event has occurred and is continuing which, with or without notice and/or passage of time, would permit the holders of (or a trustee for the holders of) any such indebtedness of the Lessee to accelerate the stated maturity thereof;

(I) it has filed all foreign, Federal, state and local tax returns which (to its knowledge) are required to be filed, and has paid or made adequate provisions for the payment of all taxes which have or may become due pursuant to said returns or pursuant to any assessment received by it, other than taxes which

are being contested in good faith or which in the aggregate do not involve a material amount;

(J) it has furnished to the Lessor its consolidated balance sheet as of May 31, 1980, and the related consolidated statements of income and retained earnings for the year then ended and its unaudited consolidated balance sheet as at the end of, and its unaudited consolidated income statement for, the quarter ended August 31, 1980; such consolidated financial statements are in accordance with its books and records and have been prepared in accordance with generally accepted accounting principles, applied on a consistent basis throughout the periods covered thereby and on a basis consistent with prior periods; such consolidated financial statements present fairly its financial condition at such dates and the consolidated results of its operations for such periods; and, except as set forth in a letter from the President of the Lessee to the Lessor dated December 23, 1980, there has not been any material adverse change in its assets, liabilities, business or condition (financial or otherwise) since May 31, 1980;

(K) it is not entering into its Documents, or any other document or transaction contemplated hereby or thereby, directly or indirectly in connection with any arrangement or understanding by it in any way involving any employee benefit plan (other than a governmental plan) with respect to which it or, to the best of its knowledge, the Builder, the Lessor or the Sublessee is a party in interest, all within the meaning of the Employee Retirement Income Security Act of 1974, as amended ("ERISA");

(L) no filing, recording or deposit (or giving of notice) with any Federal, state or local government or agency thereof, other than the filing of this Lease, the Sublease, the Assignment and the Sublease Assignment with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303, is necessary in order to protect the rights of the Lessor under this Lease in and to the Units in any state of the United States of America or the District of Columbia; and

(M) each Unit is intended for a use related to interstate commerce within the meaning of 49 U.S.C. § 11303.

(b) The Lessor represents, warrants and agrees as follows:

(A) the Lessor is a corporation legally incorporated and validly existing, in good standing under the laws of the State of Delaware, with corporate power to enter into the Documents;

(B) its Documents have been duly authorized, executed and delivered by it and constitute the legal, valid and binding agreements of the Lessor, enforceable in accordance with their respective terms; and

(C) the Lessor shall make its investment in the units with its general assets, and not directly or indirectly with the assets of any employee benefit plan (other than a governmental plan) with respect to the Lessee or the Sublessee, or to its knowledge, the Lessee or the Sublessee or the Builder is a party in interest, all within the meaning of ERISA.

§ 20. Notices. Any notice required or permitted to be given by a party to any other shall be deemed to have been given when mailed, first class certified, addressed as follows:

(a) if to the Lessor, at 650 Madison Avenue, New York, N. Y., Attention of the President,

(b) if to the Lessee, at 902 West Washington Avenue, Indianapolis, Indiana, Attention of the Chief Executive Officer, and

(c) if to the Sublessee, at 346 Public Ledger Building, Independence Square, Philadelphia, Pennsylvania, Attention of the President,

or addressed to such party at such other address as such party shall hereafter furnish to the other parties in writing.

§ 21. Severability; Effect and Modification of Lease. Any provision of this Lease which is prohibited or unenforceable in any jurisdiction, shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the

remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

This Lease exclusively and completely states the rights of the Lessor and the Lessee with respect to the leasing of the Units and supersedes all other agreements, oral or written, with respect thereto. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized signatories for the Lessor and the Lessee.

§ 22. Execution. This Lease may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. It shall not be necessary that any counterpart be signed by all the parties so long as each party hereto shall have executed and delivered one counterpart hereof. Although this Lease is dated for convenience as of the date specified in the introductory paragraph of this Lease, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

§ 23. Law Governing. The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of New York; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

IN WITNESS WHEREOF, the parties hereto have executed or caused this instrument to be executed as of the

date first above written.

C.I.T. FINANCIAL SERVICES, INC.,

by C.I.T. CORPORATION, as Agent,

by

Keith L. Fitch
Vice President

[Corporate Seal]

Attest:

[Signature]
Assistant Secretary

EARLY & DANIEL INDUSTRIES, INC.,

by

[Signature]
President

[Corporate Seal]

Attest:

[Signature]
Assistant Secretary

SCHEDULE A TO LEASE

<u>Type</u>	<u>Quantity</u>	<u>Place of Delivery</u>	<u>Lessee's Road Numbers (Both Inclusive)</u>
4,750 CFC Covered Hopper Cars AAR Mechanical Designation: L0	50	Butler, Pennsylvania	TWGX 2550-2599

SCHEDULE B TO LEASE

Casualty Value

<u>Date</u>	<u>Percentage</u>	<u>Date</u>	<u>Percentage</u>
1/1/81	107.1852	7/1/84	108.1435
2/1/81	107.4862	8/1/84	108.1943
3/1/81	107.7833	9/1/84	108.2394
4/1/81	108.0765	10/1/84	108.2791
5/1/81	108.3587	11/1/84	108.3131
6/1/81	108.6369	12/1/84	108.3414
7/1/81	108.9039	1/1/85	108.3641
8/1/81	109.1669	2/1/85	108.3810
9/1/81	109.4256	3/1/85	108.3920
10/1/81	109.6732	4/1/85	108.3971
11/1/81	109.9165	5/1/85	108.3985
12/1/81	110.1554	6/1/85	108.3939
1/1/82	110.3831	7/1/85	108.3856
2/1/82	110.6063	8/1/85	108.3713
3/1/82	110.8251	9/1/85	108.3509
4/1/82	111.0394	10/1/85	108.3265
5/1/82	111.2454	11/1/85	108.2961
6/1/82	111.4469	12/1/85	108.2595
7/1/82	111.6399	1/1/86	101.8086
8/1/82	111.8283	2/1/86	101.7617
9/1/82	112.0121	3/1/86	101.7085
10/1/82	112.1873	4/1/86	101.6489
11/1/82	112.3578	5/1/86	101.5873
12/1/82	112.5234	6/1/86	101.5192
1/1/83	112.6805	7/1/86	101.4490
2/1/83	112.8326	8/1/86	101.3722
3/1/83	112.9798	9/1/86	101.2890
4/1/83	113.1220	10/1/86	101.2035
5/1/83	113.2575	11/1/86	101.1114
6/1/83	113.3879	12/1/86	101.0127
7/1/83	113.5115	1/1/87	100.9116
8/1/83	113.6299	2/1/87	100.8038
9/1/83	113.7432	3/1/87	100.6893
10/1/83	113.8495	4/1/87	100.5680
11/1/83	113.9505	5/1/87	100.4462
12/1/83	114.0463	6/1/87	100.3176
1/1/84	107.7246	7/1/87	100.1884
2/1/84	107.8079	8/1/87	100.0523
3/1/84	107.8858	9/1/87	99.9093
4/1/84	107.9583	10/1/87	99.7656
5/1/84	108.0255	11/1/87	99.6149
6/1/84	108.0872	12/1/87	99.4572

<u>Date</u>	<u>Percentage</u>	<u>Date</u>	<u>Percentage</u>
1/1/88	92.8885	1/1/92	80.1094
2/1/88	92.7230	2/1/92	79.7497
3/1/88	92.5503	3/1/92	79.3816
4/1/88	92.3704	4/1/92	79.0050
5/1/88	92.1917	5/1/92	78.6361
6/1/88	92.0057	6/1/92	78.2588
7/1/88	91.8207	7/1/92	77.8892
8/1/88	91.6285	8/1/92	77.5111
9/1/88	91.4290	9/1/92	77.1244
10/1/88	91.2305	10/1/92	76.7454
11/1/88	91.0245	11/1/92	76.3578
12/1/88	90.8112	12/1/92	75.9616
1/1/89	90.5987	1/1/93	75.5730
2/1/89	90.3788	2/1/93	75.1758
3/1/89	90.1514	3/1/93	74.7698
4/1/89	89.9164	4/1/93	74.3550
5/1/89	89.6841	5/1/93	73.9488
6/1/89	89.4443	6/1/93	73.5338
7/1/89	89.2071	7/1/93	73.1274
8/1/89	88.9623	8/1/93	72.7121
9/1/89	88.7099	9/1/93	72.2880
10/1/89	88.4600	10/1/93	71.8724
11/1/89	88.2025	11/1/93	71.4479
12/1/89	87.9371	12/1/93	71.0145
1/1/90	87.6743	1/1/94	70.5895
2/1/90	87.4037	2/1/94	70.1556
3/1/90	87.1252	3/1/94	69.7127
4/1/90	86.8388	4/1/94	69.2608
5/1/90	86.5568	5/1/94	68.8171
6/1/90	86.2669	6/1/94	68.3644
7/1/90	85.9814	7/1/94	67.9200
8/1/90	85.6878	8/1/94	67.4665
9/1/90	85.3863	9/1/94	67.0039
10/1/90	85.0891	10/1/94	66.5496
11/1/90	84.7838	11/1/94	66.0861
12/1/90	84.4704	12/1/94	65.6134
1/1/91	84.1612	1/1/95	65.1488
2/1/91	83.8439	2/1/95	64.6751
3/1/91	83.5184	3/1/95	64.1921
4/1/91	83.1847	4/1/95	63.6997
5/1/91	82.8571	5/1/95	63.2154
6/1/91	82.5212	6/1/95	62.7217
7/1/91	82.1914	7/1/95	62.2361
8/1/91	81.8533	8/1/95	61.7411
9/1/91	81.5069	9/1/95	61.2367
10/1/91	81.1665	10/1/95	60.7402
11/1/91	80.8177	11/1/95	60.2343
12/1/91	80.4606	12/1/95	59.7189

<u>Date</u>	<u>Percentage</u>	<u>Date</u>	<u>Percentage</u>
1/1/96	59.2114	7/1/98	41.8944
2/1/96	58.6944	8/1/98	41.2520
3/1/96	58.1678	9/1/98	40.5991
4/1/96	57.6315	10/1/98	39.9532
5/1/96	57.1030	11/1/98	39.2967
6/1/96	56.5649	12/1/98	38.6298
7/1/96	56.0344	1/1/99	37.9696
8/1/96	55.4943	2/1/99	37.2989
9/1/96	54.9444	3/1/99	36.6176
10/1/96	54.4022	4/1/99	35.9256
11/1/96	53.8502	5/1/99	35.2401
12/1/96	53.2885	6/1/99	34.5440
1/1/97	52.7342	7/1/99	33.8544
2/1/97	52.1702	8/1/99	33.1541
3/1/97	51.5962	9/1/99	32.4430
4/1/97	51.0123	10/1/99	31.7383
5/1/97	50.4357	11/1/99	31.0228
6/1/97	49.8492	12/1/99	30.2964
7/1/97	49.2701	1/1/00	29.5763
8/1/97	48.6809	2/1/00	28.8452
9/1/97	48.0817	3/1/00	28.1031
10/1/97	47.4898	4/1/00	27.3499
11/1/97	46.8877	5/1/00	26.6029
12/1/97	46.2756	6/1/00	25.8447
1/1/98	45.6706	7/1/00	25.0927
2/1/98	45.0554	8/1/00	24.3295
3/1/98	44.4300	9/1/00	23.5550
4/1/98	43.7942	10/1/00	22.7866
5/1/98	43.1655	11/1/00	22.0069
6/1/98	42.5265	12/1/00	21.2157
		1/1/01	20.0000

To the extent the Lessor incurs a loss of any tax benefits described in § 17 hereof by reason of an event or condition not fully taken into account in the computation of Casualty Value by reason of the fact that the date as of which such Casualty Value is computed is later than the date as of which the Lessor is affected for tax purposes, Casualty Value shall be increased by Lessor in accordance with the manner and based on the assumptions on which such values were originally computed by the Lessor.

SCHEDULE C TO LEASE

Economic Obsolescence Value

<u>Date</u>	<u>Percentage</u>	<u>Date</u>	<u>Percentage</u>
1/1/88	92.8885	7/1/91	82.1914
2/1/88	92.7230	8/1/91	81.8533
3/1/88	92.5503	9/1/91	81.5069
4/1/88	92.3704	10/1/91	81.1665
5/1/88	92.1917	11/1/91	80.8177
6/1/88	92.0057	12/1/91	80.4606
7/1/88	91.8207	1/1/92	80.1094
8/1/88	91.6285	2/1/92	79.7497
9/1/88	91.4290	3/1/92	79.3816
10/1/88	91.2305	4/1/92	79.0050
11/1/88	91.0245	5/1/92	78.6361
12/1/88	90.8112	6/1/92	78.2588
1/1/89	90.5987	7/1/92	77.8892
2/1/89	90.3788	8/1/92	77.5111
3/1/89	90.1514	9/1/92	77.1244
4/1/89	89.9164	10/1/92	76.7454
5/1/89	89.6841	11/1/92	76.3578
6/1/89	89.4443	12/1/92	75.9616
7/1/89	89.2071	1/1/93	75.5730
8/1/89	88.9623	2/1/93	75.1758
9/1/89	88.7099	3/1/93	74.7698
10/1/89	88.4600	4/1/93	74.3550
11/1/89	88.2025	5/1/93	73.9488
12/1/89	87.9371	6/1/93	73.5338
1/1/90	87.6743	7/1/93	73.1274
2/1/90	87.4037	8/1/93	72.7121
3/1/90	87.1252	9/1/93	72.2880
4/1/90	86.8388	10/1/93	71.8724
5/1/90	86.5568	11/1/93	71.4479
6/1/90	86.2669	12/1/93	71.0145
7/1/90	85.9814	1/1/94	70.5895
8/1/90	85.6878	2/1/94	70.1556
9/1/90	85.3863	3/1/94	69.7127
10/1/90	85.0891	4/1/94	69.2608
11/1/90	84.7888	5/1/94	68.8171
12/1/90	84.4704	6/1/94	68.3644
1/1/91	84.1612	7/1/94	67.9200
2/1/91	83.8439	8/1/94	67.4665
3/1/91	83.5184	9/1/94	67.0039
4/1/91	83.1847	10/1/94	66.5496
5/1/91	82.8571	11/1/94	66.0861
6/1/91	82.5212	12/1/94	65.6134

<u>Date</u>	<u>Percentage</u>	<u>Date</u>	<u>Percentage</u>
1/1/95	65.1488	1/1/98	45.6706
2/1/95	64.6751	2/1/98	45.0554
3/1/95	64.1921	3/1/98	44.4300
4/1/95	63.6997	4/1/98	43.7942
5/1/95	63.2154	5/1/98	43.1655
6/1/95	62.7217	6/1/98	42.5265
7/1/95	62.2361	7/1/98	41.8944
8/1/95	61.7411	8/1/98	41.2520
9/1/95	61.2367	9/1/98	40.5991
10/1/95	60.7402	10/1/98	39.9532
11/1/95	60.2343	11/1/98	39.2967
12/1/95	59.7189	12/1/98	38.6298
1/1/96	59.2114	1/1/99	37.9696
2/1/96	58.6944	2/1/99	37.2989
3/1/96	58.1678	3/1/99	36.6176
4/1/96	57.6315	4/1/99	35.9256
5/1/96	57.1030	5/1/99	35.2401
6/1/96	56.5649	6/1/99	34.5440
7/1/96	56.0344	7/1/99	33.8544
8/1/96	55.4943	8/1/99	33.1541
9/1/96	54.9444	9/1/99	32.4430
10/1/96	54.4022	10/1/99	31.7383
11/1/96	53.8502	11/1/99	31.0228
12/1/96	53.2885	12/1/99	30.2964
1/1/97	52.7342	1/1/00	29.5763
2/1/97	52.1702	2/1/00	28.8452
3/1/97	51.5962	3/1/00	28.1031
4/1/97	51.0123	4/1/00	27.3499
5/1/97	50.4357	5/1/00	26.6029
6/1/97	49.8492	6/1/00	25.8447
7/1/97	49.2701	7/1/00	25.0927
8/1/97	48.6809	8/1/00	24.3295
9/1/97	48.0817	9/1/00	23.5550
10/1/97	47.4898	10/1/00	22.7866
11/1/97	46.8877	11/1/00	22.0069
12/1/97	46.2756	12/1/00	21.2157
		1/1/01	0.000

STATE OF NEW YORK,)
) SS.:
COUNTY OF NEW YORK,)

On this 23rd day of December 1980, before me personally appeared Keith L. Fitch, to me personally known, who, being by me duly sworn, says that he is a Vice President of C.I.T. CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Michael T. Concannon
Notary Public

[Notarial Seal]

MICHAEL T. CONCANNON
Notary Public, State of New York
No. 41-4711290
Queens County
Commission Expires March 30, 1982

STATE OF NEW YORK,)
) ss.:
COUNTY OF NEW YORK,)

On this ~~22nd~~ day of December 1980, before me personally appeared **ROBERT C. HALL**, to me personally known, who, being by me duly sworn, says that he is the President of EARLY & DANIEL INDUSTRIES, INC., that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Don J. Bealer
Notary Public

[Notarial Seal]

DORIS J. BIALEK
NOTARY PUBLIC, State of New York
No. 24-0284525
Qualified in Kings County
Cert. filed in New York County
Commission Expires March 30, 1981

[CS&M Ref.: 1240-141]

SUBLEASE OF RAILROAD EQUIPMENT

Dated as of November 15, 1980

Between

EARLY & DANIEL INDUSTRIES, INC.,
Sublessor,

and

TIDEWATER GRAIN COMPANY,
Sublessee.

(Covering 50 4,750 CFC Covered Hopper Cars)

The rights and interests of the Sublessor under this Sublease are subject to a security interest in favor of C.I.T. Financial Services, Inc. The original of this Sublease is held by C.I.T. Financial Services, Inc.

SUBLEASE OF RAILROAD EQUIPMENT dated as of November 15, 1980, between EARLY AND DANIEL INDUSTRIES, INC., an Indiana corporation (the "Sublessor"), and TIDEWATER GRAIN COMPANY, a Pennsylvania corporation (the "Sublessee").

WHEREAS the Sublessee has assigned to C.I.T. Financial Services, Inc. (the "Lessor"), pursuant to a Purchase Agreement Assignment dated as of the date hereof (the "Assignment"), certain of its interest in a purchase agreement (the "Purchase Agreement") between the Sublessee and Pullman Incorporated (Pullman Standard Division) (the "Builder");

WHEREAS the Lessor has accepted said Assignment and proposes to purchase from the Builder such units of railroad equipment described in Schedule A to the Lease (as hereinafter defined) as are delivered and accepted under the terms of the Lease (the "Units");

WHEREAS the Lessor and the Sublessor have entered into a Lease of Railroad Equipment dated as of the date hereof (the "Lease"), pursuant to which the Sublessor leases from the Lessor such number of Units as are so delivered and accepted under the Lease, at the rentals and for the terms and upon the conditions therein provided;

WHEREAS the Sublessee desires to sublease such number of Units as are leased under the Lease at the rentals and for the terms and upon the conditions hereinafter provided; and

WHEREAS this Sublease will be assigned to the Lessor pursuant to a Sublease Assignment and Agreement dated as of the date hereof (the "Sublease Assignment"), and the Sublessee will consent to the Sublease Assignment pursuant to a Consent and Agreement dated as of the date hereof in the form attached to the Sublease Assignment (the "Consent");

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Sublessee, the Sublessor hereby leases the Units to the Sublessee upon the

following terms and conditions:

§ 1. Net Lease. This Sublease is a net lease and, except as herein provided, the Sublessee shall not be entitled to any abatement of rent, reduction thereof or setoff against rent, including, but not limited to, abatements, reductions, recoupments or setoffs due or alleged to be due by reason of any past, present or future claims of the Sublessee against the Sublessor under this Sublease, the Lessor or the Builder or otherwise; nor, except as otherwise expressly provided herein, shall this Sublease terminate, or the respective obligations of the Sublessor or the Sublessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Units, the prohibition of or other restriction against the Sublessee's use of all or any of the Units, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Sublease, any insolvency of or the bankruptcy, reorganization or similar proceeding against the Sublessee, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Sublessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Sublease. To the extent permitted by applicable law, the Sublessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any of the Units except in accordance with the express terms hereof. Each rental or other payment made by the Sublessee hereunder shall be final (except, to the extent of amounts not otherwise due under this Sublease, for payments made in error) and the Sublessee shall not seek to recover all or any part of such rental or other payment from the Sublessor or the Lessor for any reason whatsoever.

§ 2. Delivery and Acceptance of Units. The Sublessor hereby appoints the Sublessee its agent for inspection and acceptance of the Units. The Sublessee will cause its agent (which may be the Sublessor or an employee or

agent of the Sublessor) or an employee of the Sublessee to inspect the same, and if such Unit is found to be acceptable, to execute and deliver to the Builder a certificate of acceptance (the "Certificate of Acceptance") stating that such Unit has been inspected and accepted on behalf of the Sublessee hereunder and the Lessor and the Sublessor under the Lease on the date of such Certificate of Acceptance and is marked in accordance with § 5 hereof, whereupon such Unit shall be deemed to have been accepted by the Sublessee and shall be subject thereafter to all the terms and conditions of this Sublease and the Lease. The Sublessor will cause each Unit to be delivered to the Sublessee at the point or points specified in Schedule A to the Lease. Units shall not be delivered to or accepted by the Sublessee (i) before the documents required to be delivered pursuant to § 15 of the Lease have been delivered, or (ii) subsequent to December 31, 1980.

§ 3. Rentals. The Sublessee agrees to pay to the Sublessor, as rental for each Unit subject to this Sublease, (i) an interim installment of rent payable on January 2, 1981, and (ii) 240 consecutive monthly installments commencing February 1, 1981, with each subsequent installment payable on the first day of each month in each year, to and including January 1, 2001. The interim installment of rent for each Unit shall be in an amount equal to the product of (a) the number of calendar days elapsed from and including the date of acceptance of such Unit to but not including, January 1, 1981, times (b) .0311% of the Purchase Price (as that term is defined in the Assignment) of such Unit and the 240 consecutive monthly rental installments shall be in arrears each in an amount equal to .9325% of the Purchase Price of each Unit then subject to this Sublease.

If any of the rental payment dates referred to above is not a business day the rental payment otherwise payable on such date shall be payable on the next succeeding business day. The term "business day" as used herein means a calendar day, excluding Saturdays, Sundays and all other days on which banking organizations in New York, New York, are authorized or obligated to remain closed.

The Sublessor hereby instructs the Sublessee to make all the payments provided for in this Sublease directly to the Lessor at such address as shall from time to time be specified in writing by the Lessor. The Sub-

lessee agrees to make each payment provided for herein as contemplated by this paragraph in New York Clearing House funds.

§ 4. Term of Sublease. The term of this Sublease as to each Unit shall begin on the date of acceptance of such Unit hereunder and, subject to the provisions of §§ 6, 7, 9, 10, 13 and 16 hereof, shall terminate on January 1, 2001.

All rights and obligations of the Sublessee under this Sublease and in and to the Units are subject to the rights and obligations of the Lessor under the Lease. If an Event of Default should occur under § 10 of the Lease, upon notice of the Lessor to the Sublessor and the Sublessee the participation of the Sublessor under the Sublease shall, without the consent of the Sublessor or the Sublessee, and immediately and without any further action, be terminated, and the Lessor without the further consent and automatically without any further action shall become the Sublessor under this Sublease; and the Sublessor hereby agrees and acknowledges that in such event it shall no longer be a party to this Sublease and that it would no longer have any claim whatsoever to any rental payments paid to the Lessor pursuant to § 3 hereof subsequent to such event.

§ 5. Identification Marks. The Sublessee will, at its own expense, cause each Unit to be kept numbered with the identifying number set forth in Schedule A to the Lease, or in the case of any Unit not there listed such identifying number as shall be set forth in any amendment or supplement hereto extending this Sublease to cover such Unit, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the words "Owned by C.I.T. Financial Services, Inc." or other appropriate words designated by the Lessor, with appropriate changes thereof and additions thereto designated by the Lessor as from time to time may be required by law in order to protect the Lessor's title to and property in such Unit and the rights of the Lessor under the Lease and of the Sublessor under this Sublease. The Sublessee will not place any such Unit in operation or exercise any control or dominion over the same until such words shall have been so marked on both sides thereof and will replace promptly any such words which may be removed, defaced or

destroyed. The Sublessee will not change the identifying number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Lessor and filed, recorded and deposited by the Sublessee in all public offices where this Sublease or the Lease shall have been filed, recorded and deposited and (ii) the Sublessee shall have furnished Lessor an opinion of counsel to the effect set forth in subparagraph (i)C of § 15 of the Lease in respect of such statement.

Except as provided in the immediately preceding paragraph, the Sublessee will not allow the name of any person, association or corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership; provided, however, that the Units may be lettered with the names, trademarks, initials or other insignia customarily used by the Sublessee, the Sublessor, affiliates of either of them or any sublessee under a sublease authorized by § 12 hereof.

§ 6. Taxes. All payments to be made by the Sublessee hereunder will be free of withholdings of any nature whatsoever and free of expense to the Sublessor, the Lessor or any affiliate thereof for collection or other charges and will be free of expense to the Sublessor, the Lessor or any affiliate thereof with respect to the amount of any local, state, Federal or foreign taxes or withholdings (other than any United States Federal net income tax payable by the Sublessor or the Lessor in consequence of the receipt of payments provided for herein and state and local net income taxes payable by the Sublessor or the Lessor to the taxing jurisdiction in which the principal place of business of the Sublessor or the Lessor, as the case may be, is located [other than gross receipts or gross income taxes in the nature of sales or use taxes], except, but only to the extent that, any such tax which is in substitution for or relieves the Sublessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided) or registration, documentation and license fees, assessments, duties, charges, fines or penalties (all such expenses, taxes, withholdings, registration, documentation and license fees, assessments, duties, charges, fines and penalties being hereinafter called "impositions") hereafter levied, imposed or assessed upon or in connection with or measured by this Sublease,

the Lease or any possession, storage, purchase, sale, rental, use, payment, shipment, acceptance, rejection, delivery or transfer of title under the terms hereof, all of which impositions the Sublessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Sublessee will also pay promptly all impositions which may be levied, imposed or assessed upon any Unit or for the use or operation thereof or upon the earnings arising therefrom (except as provided above) or upon the Sublessor, the Lessor or any affiliate thereof solely by reason of its lease, purchase or ownership thereof and will keep at all times all and every part of such Unit free and clear of all impositions which might in any way affect the title of the Lessor or result in a lien upon any such Unit (other than liens resulting from claims against the Lessor not related to its ownership or leasing of the Units); provided, however, that the Sublessee shall be under no obligation to pay any impositions of any kind so long as it is contesting in good faith and by appropriate legal proceedings such impositions and the nonpayment thereof does not, in the opinion of the Lessor, adversely affect the title, property or rights of the Lessor hereunder or under the Lease. The Sublessor agrees fully to cooperate with the Sublessee in any such contest, which would be at the Sublessee's expense. If any impositions shall have been charged or levied against the Sublessor, the Lessor or any affiliate thereof directly and paid by the Sublessor, the Lessor or any affiliate thereof, the Sublessee shall reimburse the Sublessor, the Lessor or such affiliate, as the case may be, on presentation of an invoice therefor. The obligations of the Sublessee to pay all impositions shall be deemed a rental obligation.

If any imposition is imposed upon the Sublessor, the Lessor or any affiliate thereof, such party shall promptly notify the Sublessee, but failure to provide such notice shall not affect the Sublessee's obligation to pay or reimburse such party for any such imposition, except to the extent the Sublessee is prejudiced by such failure in contesting such imposition. In the event any reports with respect to impositions are required to be made, the Sublessee will either make such reports in such manner as to show the interest of the Lessor in such Units or notify the Lessor of such requirement and make such reports in such manner as shall be satisfactory to the Lessor; provided, however, that if the Lessee is not permitted to make such

reports on behalf of the Lessor, it will so notify the Lessor and will furnish to the Lessor all information necessary for the Lessor to make such reports. All costs and expenses (including legal and accounting fees) of preparing such reports shall be borne by the Sublessee.

The Sublessee shall, whenever reasonably requested by the Sublessor or the Lessor, submit to the Sublessor or the Lessor copies of returns, statements, reports, billings and remittances with respect to, or furnish other evidence satisfactory to the Sublessor or the Lessor of, the Sublessee's performance of its duties under this § 6. The Sublessee shall also furnish promptly upon request such data as the Sublessor or the Lessor reasonably may require to permit the Sublessor's or the Lessor's compliance with the requirements of taxing jurisdictions, including, but not limited to, data provided on a quarterly basis as to any use of any Unit outside the United States of America.

In the event that the Sublessee shall be required to make any payment with respect to any imposition which is subject to indemnification under this § 6, the Sublessee shall pay the Lessor or any affiliate thereof, as the case may be, an amount which, after deduction of all taxes required to be paid by such person in respect of the receipt thereof under the laws of the United States or any foreign country or political subdivision of either (after giving credit for any savings in respect of any such taxes by reason of deductions, credits (other than the foreign tax credit) or allowances in respect of the payment of the amount indemnified against, and of any other such taxes), shall be equal to the amount of such payment. If the Lessor or any affiliate thereof shall be deemed to utilize a credit against its United States Federal income tax liability on account of any amount payable by the Sublessee pursuant to this § 6, the Sublessor shall promptly pay to the Sublessee the amount of such credit so utilized (but not in excess of the amount previously paid by the Lessor to the Sublessor pursuant to the corresponding provisions of the Lease). For purposes of this § 6, in determining the order in which the Lessor or any affiliate thereof utilizes withholding or other foreign taxes as a credit against its United States income taxes, the Lessor or such affiliate, as the case may be, shall be deemed to utilize (i) first, all credits (whether current, carryback or carryforward and whether foreign tax or other credits) other than those described in clause (ii) below, and (ii) then, on a pro rata basis, all credits for foreign taxes with respect to which the Lessor or any affiliate thereof, as the case may be, is entitled to obtain indemnification pursuant to an indemnification provision contained in any lease or participation agreement or other agreement relating to a lease.

The Sublessee's obligations under this § 6 shall be those of a primary obligor whether or not the Lessor or any affiliate thereof, as the case may be, is also indemnified with respect to the same matter by any other person; provided that, if no Event of Default (or event which after notice or lapse of time or both would become an Event of Default) has occurred and is continuing, the Sublessee's obligations under this § 6 shall be reduced by such indemnification actually and unconditionally received by the Lessor or such affiliate, as the case may be.

Any amount payable by the Sublessee pursuant to this § 6 shall be payable directly to the indemnified party entitled to indemnification, except to the extent paid to a governmental agency or taxing authority.

The representations, indemnities and agreements of the Sublessee provided for herein, including without limitation §§ 6, 9 and 16 hereof, and the Sublessee's obligations thereunder, shall survive the expiration or other termination of this Sublease, but only with respect to periods included in the term of this Sublease (including any renewals hereof) and any period during which the Sublessee is required to insure, maintain or store the Units pursuant to §§ 11 and 14 hereof, and are expressly made for the benefit of, and shall be enforceable by, the Sublessor or the Lessor.

§ 7. Maintenance; Payment for Casualty Occurrences; Termination for Economic Obsolescence; Insurance. The Sublessee agrees that, at the Sublessee's own cost and expense, it will be responsible for ordinary maintenance and repairs required to maintain and keep all of the Units which are subject to this Sublease in good operating order, repair and condition, ordinary wear and tear excepted, and eligible for interchange service under the applicable rules of the American Association of Railroads (or any of its successors).

In the event that during the term of this Sublease or until such Unit shall have been returned pursuant to § 14 hereof, any Unit shall be or become worn out, lost, stolen, destroyed, or irreparably damaged, from any cause whatsoever, or taken or requisitioned by condemnation or otherwise under authority of law and such taking or requisition shall have exceeded 120 days or shall extend beyond the term of this Sublease (such occurrences being hereinafter called "Casualty Occurrences"), the Sublessee shall promptly and fully notify the Sublessor and the Lessor with respect thereto. On the rental payment date next succeeding such notice or within 60 days if such Unit is being returned under § 14 hereof the Sublessee shall pay to the

Sublessor an amount equal to the accrued rental in respect of such Unit to and including the date payment is due pursuant to this sentence plus a sum equal to the Casualty Value (as hereinafter defined) of such Unit as of the date such payment is due, if payment is due on a rental payment date, and as of the next preceding rental payment date if payment is not due on a rental payment date, in each case in accordance with the schedule set out in Schedule B to the Lease. Upon the making of such payment by the Sublessee in respect of any Unit, the rental for such Unit shall cease to accrue and the term of this Sublease as to such Unit shall terminate. The Sublessor shall, after payment by the Sublessee of a sum equal to the Casualty Value of any Unit which shall have suffered a Casualty Occurrence, and any other amounts then due hereunder, execute and deliver to the Sublessee a bill of sale (without warranties other than against the Sublessor's acts) for such Unit. In the event that any Unit is taken or requisitioned under authority of law as set forth in the first sentence of this paragraph but such taking does not exceed 120 days nor extend beyond the end of the term of this Sublease, the Sublessee shall notify the Sublessor and the Lessor of such taking or requisition and all of the Sublessee's obligations under this Sublease with respect to such Unit, including but not limited to rental with respect thereto pursuant to § 3 hereof, shall continue as if such taking or requisition had not occurred. All payments received by the Sublessor or the Sublessee in respect of such taking or requisition of the use of such Unit during the term of this Sublease shall be paid over to, or retained by, the Sublessee, provided that no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing.

The Casualty Value of each Unit as of any rental payment date or such other date on which such Casualty Value is payable shall be that percentage of the Purchase Price of such Unit as is set forth in Schedule B to the Lease.

Except as hereinabove in this § 7 provided, the Sublessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit from and after delivery and acceptance thereof by the Sublessee hereunder.

Notwithstanding any provision contained in this Sublease to the contrary, in the event that the Sublessee shall in its reasonable judgment determine that the Units have become obsolete or surplus to the Sublessee's requirements during the original term of this Sublease, the Sub-

lessee shall have the right at its option, on at least 60 days' prior written notice to the Sublessor and the Lessor, to terminate (subject to the provisions for the survival of certain obligations contained in the last sentence of § 6 hereof) this Sublease on the first rental payment date following the expiration of such notice period (for the purpose of this § 7 called the "termination date"); provided that (i) the termination date is later than seven years after the due date of the interim installment of rent payable pursuant to § 3 hereof, (ii) on the termination date no Event of Default (or other event which after lapse of time or notice or both would become an Event of Default under this Sublease or the Lease) shall have occurred and be continuing, (iii) on the termination date the Units shall be in the same condition as if being returned pursuant to § 14 hereof, and (iv) the Sublessee shall have delivered to the Sublessor a certificate signed by its Chairman of the Board, its President or one of its Vice Presidents to the effect that the Units are surplus or obsolete. During the period from the giving of such notice until the fifth business day preceding the termination date, the Sublessee, as agent for the Sublessor, shall use its best efforts to obtain cash bids for the purchase of the Units, and the Sublessee shall at least five business days prior to such termination date certify to the Sublessor and the Lessor the amount of each such bid and the name and address of the party (which shall not be the Sublessee, the Sublessor or a corporation or individual affiliated with the Sublessor or the Sublessee or any party from whom the Sublessor or the Sublessee or any such affiliate intends thereafter to lease the Units) submitting such bid. On the termination date the Lessor shall, subject to the Sublessee's obtaining, on behalf of the Sublessor and the Lessor, any governmental consents required, sell the Units for cash to the bidder who shall have submitted the highest bid prior to the termination date. The total sales price realized at such sale shall be paid to the Sublessor in immediately available funds and, in addition, on the termination date, the Sublessee shall pay to the Sublessor, (i) the excess, if any, of the Economic Obsolescence Value (as hereinafter defined) in respect of the Units, computed as of the termination date, over the net sales price of the Units after deducting from such sales price any and all costs and expenses whatsoever incurred by the Sublessor in connection with such sale and (ii) the rental payment due on the termination date.

Except as provided in the next paragraph of this § 7, if no sale shall occur on the date scheduled therefor as above provided, this Sublease shall continue in full force and effect. In the event of such sale and the receipt by the Sublessor of the amounts above described,

the obligation of the Sublessee to pay rent pursuant to § 3 hereof in respect of the Units on each rental payment date shall continue to and include the termination date but shall then terminate. Any sale pursuant to this § 7 shall be free and clear of all of the Sublessee's rights to the Units, but otherwise shall be made without warranties other than against Sublessor's and Lessor's acts.

If the Sublessee shall exercise its option to terminate this Sublease, and the Lessor elects to retain the Units pursuant to § 7 of the Lease, in which case the Sublessor shall promptly notify the Sublessee of such election and the Sublessee shall not be obligated to pay any amount determined with reference to the Economic Obsolescence Value to the Sublessor. In the event the Lessor shall so elect to retain the Units, the Sublessee shall deliver the Units to the Sublessor in accordance with the provisions of § 14 hereof.

The Economic Obsolescence Value of each Unit as of any rental payment date after the seventh year after the due date of the interim installment of rent payable pursuant to § 3 hereof of this Sublease shall be that percentage of the Purchase Price of such Unit as is set forth in Schedule C to the Lease.

The Sublessee will procure and maintain at its sole cost and expense at all times during the continuance of this Sublease (and thereafter so long as any Unit is at the risk of the Sublessee), insurance coverage for comprehensive general liability (in limits of at least \$25,000,000 and including contractual liability with respect to the "hold harmless" or indemnification agreement between the Sublessee and the Sublessor contained in § 9 hereof and between the Sublessee and the Lessor contained in said Section and in the Consent), physical damage, theft, fire with extended coverage and any other insurance as may be reasonably required by the Sublessor for the benefit of the Sublessor and the Lessor as their interests appear, in amounts, against risks, in form and with insurance companies or underwriters as shall be satisfactory to the Sublessor and the Lessor from time to time and shall deliver to the Sublessor and the Lessor satisfactory evidence of such insurance coverage; provided, however, that Sublessee shall not be required to maintain physical damage, theft, or fire with extended coverage insurance in an amount in excess of the applicable Casualty Value of the Units; and provided further, however, that the comprehensive general liability insurance may contain a \$1,000,000 deductible provision per occurrence, the physical damage, theft, fire with extended coverage insurance may contain a \$50,000 deductible provision per occurrence. Without

limiting the foregoing, each insurance policy shall provide that it will not be invalidated as against the Sublessor or the Lessor because of any violation of a condition or warranty of the policy or application therefor by the Sublessee and that it may be altered or canceled by the insurer only after 30 days' advance written notice to, and that losses in excess of \$100,000 shall be adjusted only with the consent of, the Sublessor and the Lessor or their respective assigns. All liability policies shall name the Sublessor and the Lessor as an insured. All policies covering loss or damage to the Units shall provide that payment thereunder for any such loss or damage shall be made to the Sublessor, the Lessor and the Sublessee as their interests may appear. If the Sublessee shall fail to provide and furnish any of said insurance, the Sublessor or the Lessor may, after reasonable notice to the Sublessee and a reasonable opportunity, under the circumstances, to correct or provide such insurance procure such insurance and the Sublessee shall, upon demand, reimburse the Sublessor or Lessor for all outlays for such insurance with interest thereon computed at the rate of 18% per annum or such lesser maximum rate as is permitted by applicable law. The Sublessee may provide for any such insurance under blanket insurance policies maintained by the Sublessee with respect to other properties owned or leased by it.

Any insurance proceeds as the result of insurance carried by the Sublessee or condemnation payments received by the Sublessor or the Lessor in respect of Units suffering a Casualty Occurrence or other payments received by the Lessor or the Sublessor in respect of the value of Units suffering a Casualty Occurrence shall be deducted from the amounts payable by the Sublessee to the Sublessor in respect of Casualty Occurrences pursuant to this § 7, provided that no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing. If the Sublessor shall receive any such insurance proceeds, any such condemnation payments or such other payments after the Sublessee shall have made payments with respect to a Unit pursuant to this § 7 without deduction for such insurance proceeds, such condemnation payments or such other payments, the Sublessor shall pay all such insurance proceeds with respect to a Unit to the Sublessee and shall pay such condemnation payments or such other payments to the Sublessee up to an amount equal to the Casualty Value paid by the Sublessee with respect to a Unit, provided that no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing, and any balance of such condemnation payments or such other payments shall

be the property of the Lessor. All insurance proceeds received by the Sublessor in respect of any Unit not suffering a Casualty Occurrence shall be paid to the Sublessee upon proof satisfactory to the Sublessor and the Lessor that any damage to such Unit in respect of which such proceeds were paid has been fully repaired, provided that no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing.

§ 8. Reports. On or before September 30 in each year, commencing with the calendar year 1981, the Sublessee will furnish to the Sublessor and the Lessor an accurate statement (a) setting forth as at the preceding May 31 the amount, description and numbers of all Units then leased hereunder, the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding fiscal year (or since the date of this Sublease in the case of the first such statement) or are then undergoing repairs (other than running repairs) or then withdrawn from use pending such repairs (other than running repairs) and such other information regarding the condition and state of repair of the Units as the Sublessor or Lessor may reasonably request and (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and markings required by § 5 hereof have been preserved or replaced. The Sublessor and the Lessor shall have the right by their agents, to inspect the Units and the Sublessee's records with respect thereto at such reasonable times as the Sublessor or the Lessor may request during the continuance of this Sublease. Each such statement delivered to the Sublessor and the Lessor shall be accompanied by a certificate (dated the date of delivery), of the President or a Vice President of the Sublessee confirming that as of the date of such certificate, to their best knowledge after due inquiry, no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default), has occurred and is continuing, or if any such event has occurred and is continuing, specifying the nature and period of existence thereof and what action the Sublessee has taken or proposes to take with respect thereto.

The Sublessee will deliver to the Sublessor and the Lessor:

(i) as soon as available and to the extent available, and in any event within 90 days after the end of the first, second and third quarterly accounting periods in each fiscal year of the Sublessee, copies

of the consolidated balance sheets of the Sublessee as of the end of such accounting period and copies of the related consolidated statements of income of the Sublessee for the portion of its fiscal year ended with the last day of such quarterly accounting period, all unaudited and in reasonable detail and stating in comparative form the figures for the corresponding date and period in the previous fiscal year;

(ii) as soon as available, and in any event within 120 days after the end of each fiscal year, copies, in comparative form with the preceding fiscal year, of the consolidated balance sheet of the Sublessee as at the end of such fiscal year, and of the consolidated statements of income and retained earnings of the Sublessee for such fiscal year, all in reasonable detail and stating in comparative form the consolidated figures as of the end of and for the previous fiscal year, and as certified by the Sublessee's independent public accountants;

(iii) as soon as available, and in any event within 120 days after the end of each fiscal year, copies, in comparative form with the preceding fiscal year, of the balance sheet of the Lessee as at the end of such fiscal year, and of the statements of income and retained earnings of the Lessee for such fiscal year, all in reasonable detail and stating in comparative form the figures as of the end of and for the previous fiscal year; and

(iv) with reasonable promptness such other information concerning the Sublessor or the Sublessee as the Sublessor or the Lessor shall reasonably request.

§ 9. Disclaimer of Warranties; Compliance with Laws and Rules; Maintenance; Indemnification. THE SUBLESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS OR ANY COMPONENT DELIVERED TO THE SUBLESSEE HEREUNDER, AND THE SUBLESSOR MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS FOR ANY PARTICULAR PURPOSE OR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, OR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT OR ANY COMPONENT, EITHER UPON DELIVERY THEREOF TO THE SUBLESSEE OR OTHERWISE, it being agreed that

all such risks, as between the Sublessor and the Sublessee, are to be borne by the Sublessee; but the Sublessor hereby irrevocably appoints and constitutes the Sublessee its agent and attorney-in-fact during the term of this Sublease to assert and enforce from time to time, in the name of and for the account of the Lessor, the Sublessor and/or the Sublessee, as their interests may appear, at the Sublessee's sole cost and expense, whatever claims and rights the Sublessor or the Lessor may have against the Builder under the provisions of the Purchase Agreement; provided, however, that if at any time an Event of Default shall have occurred and be continuing, the Sublessor may assert and enforce, at the Sublessee's sole cost and expense, such claims and rights. The Sublessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Sublessee and the Sublessor that the Units described therein are in all the foregoing respects satisfactory to the Sublessee, and the Sublessee will not assert any claim of any nature whatsoever against the Sublessor or the Lessor based on any of the foregoing matters.

The Sublessee agrees, for the benefit of the Sublessor and the Lessor, to comply in all respects (including without limitation, with respect to the use, maintenance and operation of each Unit) with all laws of the jurisdictions in which its operations involving the Units may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units, and in the event that such laws or rules require any alteration, replacement or addition of or to any part on any Unit, the Sublessee will conform therewith at its own expense; provided, however, that the Sublessee may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Sublessor or the Lessor, adversely affect the property or rights of the Sublessor or the Lessor under this Sublease or under the Lease. The Sublessee, at its own cost and expense, may from time to time make such other additions, modifications and improvements to the Units during the term of this Sublease as are readily removable without causing material damage to the Units (and do not adversely and materially affect the value of the Units).

The additions, modifications and improvements made by the Sublessee under the preceding sentence shall be owned by the Sublessee (or such other party as may have title thereto), except to the extent such additions, modifications or improvements are described in the following sentence. Any and all parts installed on and additions and replacements made to any Unit (i) which are not readily removable without causing material damage to such Unit, (ii) the cost of which is included in the Purchase Price of such Unit, (iii) in the course of ordinary maintenance of the Units (including, but not limited to, parts in replacement of or in substitution for, and not in addition to, any parts originally incorporated in or installed as part of such Unit at time of acceptance hereunder or any part in replacement of, or substitution for, such replacement part) or (iv) which are required for the operation or use of such Unit by the interchange rules of the Association of American Railroads or by the regulations of the Interstate Commerce Commission, the United States Department of Transportation or any other regulatory body, shall constitute accessions to such Unit and full ownership thereof free from any lien, charge, security interest or encumbrance shall immediately be vested in the Lessor.

Neither the Sublessor nor the Lessor (which term as used herein shall include the Sublessor's or the Lessor's successors, assigns, agents and servants) shall have responsibility or liability to the Sublessee, its successors or assigns, or to any other person, with respect to any or all liabilities (as "liabilities" is hereinafter defined), and the Sublessee hereby assumes liability for, and hereby agrees, at its own cost and expense, to indemnify, protect, defend, save and keep harmless the Sublessor and the Lessor from and against, any and all liabilities, other than the Lessor's obligation to pay to the Builder, the Purchase Price for all Units delivered and accepted in accordance with the terms hereof and the Assignment. The term "liabilities" as used herein shall include any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs, expenses and disbursements, including reasonable legal fees and expenses, of whatsoever kind and nature, imposed on, incurred by or asserted against the Sublessor or the Lessor, in any way relating to or arising out of this Sublease, the Lease, the Purchase Agreement, the Assignment, the Sublease Assignment, the Consent or the manufacture, purchase, acceptance, rejection, ownership, transporting, delivery, lease, sublease,

possession, control, use, operation, condition, testing, servicing, maintenance, repair, improvement, replacement, storage, sale, return or other disposition of the Units (including, without limitation, (a) any inadequacy or deficiency or defect therein, including latent defects, whether or not discoverable by the Sublessor, the Lessor or the Sublessee, or any claim for patent, trademark or copyright infringement, (b) any accident in connection therewith resulting in damage to property or injury or death to any person, including but not limited to, employees and agents of the Sublessor or the Sublessee, (c) any strict liability in tort or imposed by statute and (d) any interruption of service, loss of business or consequential damages resulting therefrom). The Sublessee shall not be responsible to the Sublessor or the Lessor under this § 9 with respect to any claim to the extent that such claim arises solely from such party's own default, own negligence or own law violations. The Sublessee agrees to give the Sublessor and the Lessor and the Sublessor agrees to give the Sublessee prompt written notice of any of the liabilities hereby indemnified against. The Sublessee's obligations under this paragraph shall be those of a primary obligor whether or not the Sublessor or the Lessor is also indemnified with respect to the same matter by any other person provided that, if no Event of Default (or other event which after notice or lapse of time or both would constitute an Event of Default) has occurred and is continuing, the Sublessee's obligations under this paragraph shall be reduced by any such indemnification actually and unconditionally received by the Lessor. The indemnities arising under this paragraph shall survive payment of all other obligations under this Sublease and the expiration or termination of this Sublease. Upon the unconditional payment in full of any indemnities as contained in this § 9 by the Sublessee, and provided that no Event of Default (or other event which with lapse of time or notice or both would constitute an Event of Default) shall have occurred and be continuing, the Sublessee shall be subrogated to any right of the Sublessor or the Lessor in respect of the matter against which indemnity has been given. Provided that no Event of Default (or other event with which lapse of time or notice or both would constitute an Event of Default) shall have occurred and be continuing, any payments received by the Sublessor or the Lessor from any person (except the Sublessee) as a result of any matter with respect to which the Sublessor or the Lessor has been indemnified by the Sublessee pursuant to this § 9 shall be

paid over to the Sublessee to the extent necessary to reimburse the Sublessee for indemnification payments previously made in respect of such matter but only after the Lessor and the Sublessor have been unconditionally indemnified in full. The indemnities arising under this paragraph shall not be construed to constitute a guarantee of the residual value or useful life of any Unit.

The Sublessee agrees to cause the preparation of and delivery to the Sublessor or the Lessor within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Sublessor or the Lessor) any and all reports (other than income tax, gross receipts tax, or gross income tax returns) to be filed by the Sublessor or the Lessor with any Federal, state or other regulatory authority by reason of the ownership by the Lessor of the Units or the leasing or subleasing thereof to the Sublessor or the Sublessee.

§ 10. Default. If, during the continuance of this Sublease, one or more of the following events (each such event being hereinafter sometimes called an "Event of Default") shall occur:

(a) default shall be made in payment of any amount payable under this Sublease, and such default shall continue for five days after written notice of such default from the Sublessor or the Lessor;

(b) the Sublessee shall make or permit any unauthorized assignment or transfer of this Sublease or of possession of the Units, or any thereof;

(c) default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Sublessee contained herein or in the Assignment or the Consent, and such default shall continue for 30 days after written notice from the Sublessor or the Lessor to the Sublessee specifying the default and demanding that the same be remedied;

(d) any representation or warranty made by the Sublessee in this Sublease or in the Consent or in any document or certificate furnished the Sublessor or the Lessor in connection herewith or pursuant hereto shall prove to be incorrect at any time in any material

respect and such condition shall continue unremedied for a period of 30 days after written notice thereof by the Sublessor or the Lessor to the Sublessee specifying the default and demanding that the same be remedied;

(e) a petition for reorganization under Title 11 of the United States Code, as now constituted or as hereafter amended, shall be filed by or against the Sublessee and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Sublessee under this Sublease shall not have been and shall not continue to be duly assumed in writing within 90 days after such petition shall have been filed, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as expenses of administration and obligations incurred by such trustee or trustees;

(f) any proceeding shall be commenced by or against the Sublessee for any relief which includes, or might result in, any modification of the obligations of the Sublessee under this Sublease or the Consent under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustments of the obligations of the Sublessee hereunder and under the Consent) and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Sublessee under this Sublease and the Consent shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 75 days after such proceeding shall have been commenced; or

(g) an Event of Default set forth in § 10 of the Lease shall have occurred;

then, in any such case, the Sublessor, at its option, may:

(i) proceed by appropriate court action or actions either at law or in equity, to enforce performance by the Sublessee of the applicable covenants of this Sublease or to recover damages for the breach thereof including net after-tax losses of Federal, state and local net income tax benefits to which the Lessor would otherwise be entitled under the Lease or this Sublease; or

(ii) by notice in writing to the Sublessee terminate this Sublease, whereupon all rights of the Sublessee to the use of the Units shall absolutely cease and terminate as though this Sublease had never been made, but the Sublessee shall remain liable as herein provided; and thereupon the Sublessor may by its agents enter upon the premises of the Sublessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, possess, sell, operate, lease to others and enjoy the same free from any right of the Sublessee, or its successors or assigns, to use the Units for any purposes whatever and without any duty to account to the Sublessee for such action or inaction but applying any proceeds (net of expenses as determined by the Sublessor) arising therefrom against the liabilities of the Sublessee herein; but the Sublessor shall, nevertheless, have a right to recover from the Sublessee any and all amounts which under the terms of this Sublease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Sublessee as damages for loss of a bargain and not as a penalty, whichever of the following amounts the Sublessor, in its sole discretion, shall specify: (x) a sum, with respect to each Unit, equal to the excess of the present value, at the time of such termination, of the entire unpaid balance of all rentals for such Unit which would

otherwise have accrued hereunder from the date of such termination to the end of the term of this Sublease as to such Unit over the then present value of the rental which the Sublessor reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in each case on the basis of an 12% per annum discount, compounded monthly from the respective dates upon which rentals would have been payable hereunder had this Sublease not been terminated or (y) an amount equal to the excess, if any, of the Casualty Value as of the rental payment date on or next preceding the date of termination over the amount the Sublessor reasonably estimates to be the sales value of such Unit at such time; provided, however, that in the event the Lessor shall have sold any Unit, the Sublessor, in lieu of collecting any amounts payable to the Sublessor by the Sublessee pursuant to the preceding clauses (x) and (y) of this subparagraph (ii) with respect to such Unit, may, if it shall so elect, demand that the Sublessee pay the Sublessor and the Sublessee shall pay to the Sublessor on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value for such Unit, as of the rental payment date on or next preceding the date of termination over the net proceeds of such sale.

In addition, the Sublessee shall be liable, except as otherwise provided above, for any and all unpaid amounts due hereunder before, during or after the exercise of any of the foregoing remedies and for all reasonable legal fees and other costs and expenses incurred by reason of the occurrence of any Event of Default or the exercise of Sublessor's remedies with respect thereto, including all costs and expenses incurred in connection with the return of any Unit.

The remedies in this Sublease provided in favor of the Sublessor shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in its favor existing at law or in equity. The Sublessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is not, at the time in question, prohibited by law. The Sublessee hereby waives any and all existing or

future claims to any offset against the rental payments due hereunder, and agrees to make such payments regardless of any offset or claim which may be asserted by the Sublessee on its behalf.

The failure of the Sublessor to exercise the rights granted it hereunder upon the occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

§ 11. Return of Units upon Default. If this Sublease shall terminate pursuant to § 10 hereof, the Sublessee shall upon notice from the Sublessor forthwith deliver possession of the Units to the Sublessor. Each Unit returned to the Sublessor pursuant to this § 11 shall (i) be in the condition required by § 7 hereof, (ii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads, if applicable, or such comparable standards as may then be in effect, (iii) have attached or affixed thereto any additions, modifications and improvements considered an accession thereto as provided in § 7 hereof and have removed therefrom any such additions, modifications and improvements not considered an accession and (iv) meet the applicable rules of any governmental agency or other organization with jurisdiction. For the purpose of delivering possession of any Unit or Units to the Sublessor as above required, the Sublessee shall at its own cost, expense and risk:

(a) forthwith and in the usual manner (including, but not by way of limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any Unit or Units have been interchanged or which may have possession thereof to return the Unit or Units) transport or cause the Units to be transported to such point or points within the continental United States as the Lessor may reasonably designate and there assembled;

(b) place such Units upon such storage tracks of the Sublessor or the Sublessee within the continental United States as the Lessor reasonably may designate or, if such storage tracks are not available, upon such other storage tracks within the continental

United States as the Lessor may reasonably designate;

(c) permit the Sublessor to store such Units on such tracks at the risk of the Sublessee without charge for rent, insurance or storage until such Units have been sold, leased or otherwise disposed of but not in any event for longer than 270 days; and

(d) cause such Units to be moved to such point or points as shall be reasonably designated by the Lessor upon any sale, lease or any disposal of all or any of the Units.

The assembling, delivery, storage, insurance and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Sublessee and are of the essence of this Sublease, and upon application to any court of equity having jurisdiction in the premises the Sublessor shall be entitled to a decree against the Sublessee requiring specific performance of the covenants of the Sublessee so to assemble, deliver, store, insure and transport the Units. During any storage period, the Sublessee will, at its own cost and expense, maintain and keep the Units in the condition required by § 7 hereof, maintain the insurance on the Units required by § 7 hereof and will permit the Sublessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser or lessee of any such Unit, to inspect the same; provided, however, that the Sublessee shall not be liable, except in the case of negligence of the Sublessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor, the Sublessor or any prospective purchaser or lessee, the rights of inspection granted under this sentence.

Without in any way limiting the obligation of the Sublessee under the foregoing provisions of this § 11, the Sublessee hereby irrevocably appoints the Sublessor as the agent and attorney of the Sublessee, with full power and authority, at any time while the Sublessee is obligated to deliver possession of such Unit to demand and take possession of such Unit in the name and on behalf of the Sublessee from whomsoever shall be in possession of such Unit at the time.

§ 12. Assignment; Possession and Use. This

Sublease shall be assignable in whole or in part by the Sublessor without the consent of the Sublessee, but the Sublessee shall be under no obligation to any assignee of the Sublessor except upon written notice of such assignment from the Sublessor and no greater obligations will be imposed on the Sublessee on account of any such assignment other than obligations contemplated by the Consent. All the rights of the Sublessor hereunder (including, but not limited to, the rights under §§ 6, 7, 10 and 16 and the rights to receive the rentals payable under this Sublease) shall inure to the benefit of the Sublessor's assigns (including the partners or any beneficiary of any such assignee if such assignee is a partnership or a trust, respectively).

This Sublease and the Sublessee's right and interest herein, and in the option to renew this Sublease and in the rights and obligations as herein provided shall be completely prior to each and every deed of trust or mortgage or other security instrument of the Sublessor and each such instrument, whether heretofore, now or hereafter in existence shall in all respects be subject and subordinate to this Sublease and the Sublessee's right and interest herein and in such renewals, rights, obligations and options.

So long as no Event of Default exists under this Sublease, the Sublessee or any affiliate thereof, shall be entitled to the possession and use of the Units in accordance with the terms of this Sublease and the first proviso in the next paragraph shall not apply to any use of the Units by any affiliate. The Sublessee agrees to use the Units solely within the United States of America, Canada and Mexico and solely for the transportation of bulk agricultural commodities and plastic pellets. The Sublessee shall use or cause to be used each Unit in such a manner that for any period relevant to the Investment Credit or the Depreciation Deduction (as such terms are defined in § 16 hereof) during the term of this Sublease, each Unit will constitute "section 38 property" within the meaning of Section 48(a) of the Code (as hereinafter defined) and will not be used predominantly outside the United States within the meaning of said Section 48(a) (or any exception thereto).

The Sublessee may (a) sublease any of the Units to any sublessee or (b) permit any of the Units to be used

by any other person; provided, however, that, without the prior written consent of the Lessor, which shall not be unreasonably withheld, any such sublease or arrangement for usage shall not be for a term that aggregates more than 12 months; provided further, however, that the Sublessee shall not sublease the Units to, or permit their use by, any person in whose hands such Units would not qualify as, or would cause such Units to lose their qualification as, "section 38 property" within the meaning of the Code. The Sublessee shall promptly notify the Sublessor and the Lessor of any such sublease, such notice to be accompanied by a copy of such sublease. All costs and expenses (including reasonable fees and disbursements of counsel to the Sublessor or the Lessor) incident to such sublease or arrangement for usage shall be borne by the Sublessee. Except as set forth in the next to last paragraph of this § 12, the Sublessee may not assign this Sublease to any other person. No sublease or usage permitted by the foregoing shall relieve the Sublessee of its obligations hereunder which shall be and remain those of a principal and not a surety.

Any sublease or arrangement for usage permitted under this Lease may provide that the sublessee or user, so long as it shall not be in default under such sublease or arrangement for usage, shall be entitled to the possession of the Units included in such sublease or arrangement for usage and the use thereof; provided, however, that every such sublease or arrangement for usage shall be subject to all the terms and conditions of this Sublease and the Lease and the rights and remedies of the Sublessor under this Sublease and the Lessor under the Lease in respect of the Units covered by such sublease or arrangement for usage upon the occurrence of an event of default thereunder or under the Lease or an Event of Default hereunder and no such sublease or arrangement for usage shall relieve the Sublessee of its obligations to the Sublessor under this Sublease and to the Lessor under this Sublease and the Consent.

Notwithstanding the foregoing, the Sublessee's right to use or sublease the Units is subject to the following conditions:

- (1) that if the Sublessee subleases, uses or permits the use of any Unit in Canada (or any province or Territory thereof) the Sublessee shall

first have (a) taken all necessary action to protect the right, title and interest of the Lessor in the Units to be so subleased or used and (b) furnished the Lessor with an opinion of Canadian counsel satisfactory to the Lessor to the effect that such action is all that is necessary to protect the right, title and interest of the Lessor in such Units and the Lease;

(2) that use of the Units in Mexico will be permitted only at such time, if any, as the Lessor is reasonably satisfied that proper protection of the right, title and interest of the Lessor in the Units is possible in Mexico, and in that event the Sublessee shall first have (a) taken all necessary action to protect the right, title and interest of the Lessor in the Units to be so subleased or used and (b) furnished the Lessor with an opinion of Mexican counsel satisfactory to the Lessor to the effect that such action is all that is necessary to protect the right, title and interest of the Lessor in such Units and the Lease;

(3) that in no event will any Unit be used in Canada or Mexico (or any combination of Mexican and Canadian use) for more than four months in any calendar year; and

(4) that any Unit at any time located in Canada or Mexico shall be marked with the markings specified in § 5 hereof.

Nothing in this § 12 shall be deemed to restrict the right of the Sublessee to assign or transfer its leasehold interest under this Sublease in all but not less than all the Units or possession of all but not less than all the Units to any corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have duly assumed the obligations of the Sublessee hereunder) into or with which the Sublessee shall have become merged or consolidated or which shall have acquired the property of the Sublessee as an entirety or substantially as an entirety or, with the prior written consent of the Lessor, property of the Sublessee related to the operation of the Units or a portion thereof; provided, however, that (i) such assignee or transferee will not, upon the effectiveness of such merger, consoli-

dation or acquisition, be in default under any provision of this Lease and (ii) in the case of any such acquisition of less than all or substantially all the property of the Sublessee, such acquisition shall not alter in any way the Sublessee's obligation to the Sublessor hereunder or to the Lessor hereunder or under the Consent, which shall be and remain those of a principal and not a surety.

The Sublessee, at its own expense, will as soon as possible cause to be duly discharged any lien, charge, security interest or other encumbrance (except any sublease as aforesaid and other than an encumbrance resulting from claims against the Lessor not related to the ownership or leasing of the Units) which may during the term hereof or any renewal hereof or during any period which the Sublessee is required to insure, maintain or store the Units at its expense and risk pursuant to §§ 11 and 14 hereof, be imposed on or with respect to any Unit, including any accession thereto, or the interest of the Sublessor, the Lessor or the Lessee therein; except that this covenant will not be breached by reason of levies, in each case not due and delinquent, or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent; and, furthermore, the Sublessee shall be under no obligation to discharge any such lien, charge, security interest or encumbrance so long as it is contesting the same in good faith and by appropriate legal proceedings and the failure to discharge the same does not, in the opinion of the Sublessor and the Lessor, adversely affect the title, property or rights of the Sublessor hereunder and of the Lessor under the Lease.

§ 13. Renewal. Provided that this Sublease has not been earlier terminated and no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) exists hereunder, the Sublessee may by written notice delivered to the Sublessor and the Lessor not less than 6 months nor more than 12 months prior to the end of the original term of this Sublease elect to extend the term of this Sublease in respect of all but not fewer than all of the Units then covered by this Sublease, for an additional five-year period commencing on the scheduled expiration of the original term of this Sublease; provided, however, that such renewal shall have no effect unless the Sublessor exercises its renewal option pursuant to § 12 of the Lease.

The rental payable shall be the Fair Market Rental Value of such Units as of the end of the original term of this Sublease. Rentals under the extended term shall be payable, in arrears, in monthly payments on the days of the month on which such rentals were payable for the Units in each year of the original term.

"Fair Market Rental Value" for the purposes of this § 13 shall be equal in amount to the Fair Market Rental Value, determined pursuant to § 13 of the Lease.

§ 14. Return of Units upon Expiration of Term.
As soon as practicable on or after the expiration of the original or extended term of this Sublease, the Sublessee will, at its own cost and expense, at the request of the Sublessor, deliver possession of such Unit to the Sublessor upon such storage tracks of the Sublessor or the Sublessee or, if such storage tracks are not available, upon such other storage tracks as the Lessor may reasonably designate within 15 days after receipt of written notice from the Sublessee that such storage tracks are not available, or in the absence of such designation, as the Sublessee may select, and permit the Sublessor to store such Unit on such tracks for a period not exceeding 180 days following notification to the Sublessor and the Lessor by the Sublessee that all the Units have been assembled and delivered for storage and transport the same, at any time within such 180 day period, to any reasonable place on lines of railroad, or to any connecting carrier for shipment, all as directed by the Sublessor, the movement and storage of such Units to be at the expense and risk (including insurance) of the Sublessee; provided, however, that for any period after 90 days, to and including the 180th day, following such notification storage shall be at the expense and risk of the Sublessor (and the Sublessee agrees that its charge to Sublessor for storage shall be reasonable in amount and will include the cost of insurance provided by Sublessee). During any such storage period the Sublessee will maintain and keep each Unit in good operating order, repair and condition, maintain the insurance required by § 7 hereof and permit the Sublessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser or lessee of such Unit, to inspect the same; provided, however, that the Sublessee shall not be liable, except in the case of negligence of the Sublessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on

behalf of the Sublessor or any prospective purchaser or lessee, the rights of inspection granted under this sentence; provided further, however, that reasonable costs of maintenance and insurance for any period after 90 days following such notification shall be borne by the Sublessor. The assembling, delivery, storage, insurance and transporting of the Units as hereinbefore provided are of the essence of this Sublease, and upon application to any court of equity having jurisdiction in the premises, the Sublessor shall be entitled to a decree against the Sublessee requiring specific performance of the covenants of the Sublessee so to assemble, deliver, store, insure and transport the Units. Each Unit returned to the Sublessor pursuant to this § 14 shall (i) be in the condition required by § 7 hereof, (ii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads, if applicable, or such comparable standards as may then be in effect, (iii) have attached or affixed thereto any additions, modifications and improvements considered an accession thereto as provided in § 7 hereof and have removed therefrom any such additions, modifications and improvements not considered an accession and (iv) meet applicable rules of any governmental agency or other organization with jurisdiction. In the event any Unit is not assembled, delivered and stored, as hereinabove provided, within 60 days after the expiration or termination of the original or extended term of this Sublease, the Sublessee shall pay to the Sublessor an amount equal to 1/30 of the next preceding rental payment applicable to such Unit for each day until such Unit is assembled, delivered and stored; such payment shall not affect the obligation of the Sublessee to redeliver the Units pursuant to this § 14.

§ 15. Recording. The Sublessee, at its own expense, will cause this Sublease, the Assignment, the Lease and the Sublease Assignment to be filed with the Interstate Commerce Commission in accordance with 49 U.S.C. § 11303. The Sublessee will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record (and will refile, reregister, deposit and redeposit or rerecord whenever required) any and all further instruments required by law or reasonably requested by the Sublessor or the Lessor for the purpose of proper protection, to their satisfaction, of the Sublessor's or the Lessor's interest in the Units, or for the purpose of carrying out the intention of this

Sublease and the Assignment, the Lease, the Sublease Assignment and the Consent; it being specifically understood that no filing under the Uniform Commercial Code of any state will be made unless the Lessor or the Sublessor is advised by counsel that such filing is required for the proper protection of the Lessor's or the Sublessor's interest in the Units, or for the purpose of carrying out the intention of this Sublease, the Assignment, the Lease, the Sublease Assignment and the Consent; and the Sublessee will promptly furnish to the Sublessor and the Lessor evidences of all such filing, registering, depositing or recording, and an opinion or opinions of counsel for the Sublessee with respect thereto satisfactory to the Sublessor and the Lessor. This Lease, the Assignment, the Lease and the Sublease Assignment shall be filed with the Interstate Commerce Commission prior to the delivery and acceptance hereunder of any Unit.

§ 16. Federal Income Taxes. The Lessor, as the owner of the Units, shall be entitled to such deductions, credits and other benefits as are provided by the Internal Revenue Code of 1954, as amended to the date hereof (the "Code"), to an owner of property, including, without limitation, (A) the depreciation deduction with respect to the Units pursuant to Section 167 of the Code as in effect on the date hereof with respect to each Unit (a) commencing in the taxable year of the Lessor during which the date of delivery (the "Delivery Date") with respect to such Unit occurs and calculated on the assumption that each Unit is placed in service on the Delivery Date with respect to such Unit, (b) utilizing a 12-year depreciable life, which is the lower limit listed in Revenue Procedure 77-10 for property in Asset Guideline Class No. 00.25, in accordance with the Class Life Asset Depreciation Range System under Section 167(m) of the Code as in effect on the date hereof, (c) employing initially the double declining balance method of depreciation and switching, without the consent of the Commissioner of Internal Revenue, to the sum of the years-digits method of depreciation when most beneficial to the Lessor, (d) utilizing the modified half-year convention or the half-year convention as selected by the Lessor in any taxable year pursuant to Treas. Regs. § 1.167(a)-11(c)(2)(ii) and (iii), (e) including in the basis of each Unit 100% of the Purchase Price thereof and any additional amounts properly includible under Section 1012 of the Code as in effect on the date hereof and (f) taking into account, for each Unit, an estimated gross salvage value of

10% of the Purchase Price thereof, which will be reduced by 10% of the Purchase Price thereof pursuant to Section 167(f) of the Code as in effect on the date hereof (the "Depreciation Deduction"), and (B) the investment credit pursuant to Section 38 and related sections of the Code as in effect on the date hereof, which, for each Unit, shall be equal to 10% of the sum of (a) 100% of the Purchase Price with respect to such Unit and (b) 100% of any additional amounts properly includible in the basis of such Unit under Section 1012 of the Code as in effect on the date hereof and shall be available based on the assumption that such Unit is placed in service by the Lessor on the Delivery Date with respect to such Unit (the "Investment Credit").

Sublessee agrees that neither it nor any corporation controlled by it, in control of it, or under common control with it, directly or indirectly, will at any time take any action or file any returns or other documents inconsistent with the foregoing paragraph and that each of such corporations will file such returns, take such actions and execute such documents as may be reasonable and necessary to facilitate accomplishment of the intent hereof unless (i) the filing of such returns, taking of such actions or execution of such documents is precluded by acts, omissions or misrepresentations of Lessor or any other third party or (ii) the filing of such returns, or taking of such actions or execution of such documents is precluded by a final, unappealable judgment or decree or other action of a court or administrative agency or by a change in the Code or regulations thereunder such that, in the case of clause (i) and clause (ii), in the opinion of nationally recognized tax counsel reasonably acceptable to Lessor the filing of such returns, taking of such actions or execution of such documents would subject Sublessee to a penalty for fraud or negligence. The Lessor intends that any Federal income tax returns filed by the affiliated group of which it is a member will be consistent with the provisions set forth in the preceding paragraph, unless such consistency is precluded by law or regulation or by acts, omissions or misrepresentations of Sublessor, Sublessee or any other third party.

Notwithstanding anything to the contrary contained in § 12 hereof, the Sublessee represents and warrants that (i) all the Units constitute property the full Purchase Price of which qualifies for the Investment Credit under Section 38 and related Sections of the Code; (ii) at the time the Lessor becomes the owner of the Units, the Units will constitute "new section 38 property" within the

meaning of Section 48(b) of the Code and at the time the Lessor becomes the owner of the Units, the Units will not have been used by any person so as to preclude "the original use of such property" within the meaning of Sections 48(b) and 167(c)(2) of the Code from commencing with the Lessor; and (iii) each Unit will be placed in service for purposes of Sections 46, 48 and 167 of the Code on such Unit's Delivery Date.

Sublessee covenants and agrees to maintain such records as shall be reasonably necessary and sufficient to verify the factual basis for the matters referred to in this § 16 and will within 30 days of written request therefor make copies of such records available for inspection by the Lessor or any authorized agent of the Lessor.

If the Lessor, in computing its Federal income tax liability, shall lose the benefit of, lose the right to claim or suffer recapture with respect to, or there shall be disallowed, all or any portion of the Investment Credit with respect to any Unit by reason of any act or failure to act (including, without limitation, any act or failure to act in connection with the income tax returns of the Sublessee or the Sublessor or the income tax returns of the affiliated group, within the meaning of Section 1504 of the Code, of which the Sublessee or the Sublessor is a member), regardless of whether any such act or failure to act is permitted or required by the Lease or this Sublease or any transactions contemplated by the Lease or this Sublease, any inaccuracy of any representation or warranty or any breach of any agreement, covenant or warranty contained in this Sublease, the Assignment, the Lease, the Sublease Assignment or the Consent, on the part of the Sublessee or the Sublessor, any affiliate of either, any sublessee or other user of any Unit or the manufacturer, supplier or builder of any Unit or any sale or disposition of any Unit or any interest therein after an Event of Default shall have occurred or any action of the Sublessor or the Lessor pursuant to § 10 hereof or of the Lease (except as provided below in this § 16), or if the Lessor would otherwise lose, or have recaptured or disallowed, any such portion as a result of any such cause except for its failure also to have sufficient liability for tax against which to credit such portion, Sublessee shall pay to the Lessor an amount which shall be equal to the portion of the Investment Credit so lost, recaptured or disallowed (or which would have been so lost, recaptured or disallowed except for any such failure to have sufficient liability for tax) and the amount of any interest, penalties or additions to tax (including any interest, penalties or additions to tax because of underpayment of estimated tax) which may be payable to the United States of America by the Lessor in

connection with such loss, recapture or disallowance, which amounts shall be payable at such time as the tax and interest, penalties or additions to tax attributable to such loss, recapture or disallowance are payable (or would have been payable), but not sooner than 30 days after receipt by Sublessee of written notice from the Lessor; provided, however, that Sublessee shall not be liable for the payment of any such amount if and to the extent that such loss, recapture or disallowance would not have resulted but for the occurrence of a Casualty Occurrence whereby Sublessee is required pursuant to § 7 hereof to pay, and shall pay in full, the Casualty Value for such Unit and all other amounts required to be paid under said Section.

Anything herein to the contrary notwithstanding, (i) if the Casualty Value has been paid with respect to any Unit pursuant to this Sublease, the indemnity otherwise payable under this § 16 with respect to the Investment Credit on such Unit shall be reduced by any amount included in such Casualty Value as of the date of computation on account of the loss of such Investment Credit, and (ii) if Sublessee pays an indemnity under this § 16 with respect to the Investment Credit on any Unit, appropriate adjustment shall be made to the Casualty Value percentages with respect to such Unit to reflect such payment.

If the Lessor, in computing its Federal, state or local taxable income for any taxable year (or portion thereof), shall lose the benefit of, lose the right to claim or suffer recapture with respect to, or there shall be disallowed, all or any portion of the Depreciation Deduction with respect to any Unit by reason of any act or failure to act (including, without limitation, any act or failure to act in connection with the income tax returns of the Sublessee or the Sublessor or the income tax returns of the affiliated group, within the meaning of Section 1504 of the Code, of which the Sublessee or the Sublessor is a member), regardless of whether any such act or failure to act is permitted or required by the Lease or this Sublease or any transactions contemplated by the Lease or this Sublease, any inaccuracy of any representation or warranty or any breach of any agreement, covenant or warranty contained in this Sublease, the Assignment, the Lease, the Sublease Assignment or the Consent, on the part of the Sublessee or the Sublessor, any affiliate of either, any sublessee or other user of any Unit or the manufacturer, supplier or builder of any Unit or any sale or disposition of any Unit or any interest therein after an Event of Default shall have occurred or any action of the Sublessor or the Lessor pursuant to § 10 hereof or of the Lease (except as provided below in this § 16), or if the Lessor

would otherwise lose, or have recaptured or disallowed, any such portion as a result of any such cause except for its failure also to have sufficient taxable income against which to deduct such Depreciation Deduction, the Sublessee shall pay to the Lessor, in respect of such loss, recapture or disallowance, an amount which shall be equal to the sum of (A) any additional income taxes required to be paid (or which would have been payable except for any such failure to have sufficient taxable income) to the United States of America or to any state or local taxing jurisdiction by the Lessor with respect to such year by reason of such loss, recapture or disallowance of such Depreciation Deduction and (B) the amount of any interest, penalties or additions to tax (including any interest, penalties or additions to tax because of underpayment of estimated tax) which may be payable to the United States of America or to any state or local taxing jurisdiction by the Lessor in connection with such loss, recapture or disallowance, which amount shall be payable at such time as the tax and interest, penalties or additions to tax attributable to such loss, recapture or disallowance are payable (or would have been payable), but not sooner than 30 days after receipt by Sublessee of written notice from the Lessor; provided, however, that Sublessee shall not be liable for payment of any such amount if and to the extent that such loss, recapture or disallowance would not have resulted but for the occurrence of any of the following events:

(i) a Casualty Occurrence shall occur whereby Sublessee is required pursuant to § 7 hereof to pay, and shall pay in full, the Casualty Value for such Unit and all other amounts required to be paid under said Section; or

(ii) a termination of this Sublease pursuant to Section 7 hereof shall occur with respect to such Unit whereby Sublessee is required to pay, and shall pay in full, amounts determined by reference to the Economic Obsolescence Value for the Units and all of the amounts required to be paid under said Section.

If the Lessor, as the result of such loss, recapture or disallowance of the Depreciation Deduction with respect to any year, as the result of any inclusion in gross income of any Additional Expenditures (as herein-after defined) or as the result of any early payment by Sublessee referred to in the thirteenth paragraph of this § 16, in each case, under circumstances which require

Sublessee to indemnify the Lessor with respect to such loss, recapture, disallowance, Additional Expenditure or early payment, shall actually realize Federal income tax savings which it would not have realized but for such loss, recapture, disallowance, Additional Expenditure or early payment with respect to any subsequent year, the Sublessor shall pay Sublessee when received from the Lessor an amount equal to the sum of such Federal income tax savings actually realized by the Lessor plus any tax savings actually realized under the laws of any Federal, state or local government or taxing authority, as the result of any payment made pursuant to the corresponding provision of the Lease, if, and to the extent such Federal income or other tax savings are actually realized, within 30 days after returns are filed, or a refund is received as the case may be, reflecting such actual realization; provided, however, that (i) such sum shall not exceed the excess of the amounts previously paid by Sublessee to the Lessor pursuant to this § 16 with respect to such loss, recapture, disallowance, Additional Expenditure or early payment over the amounts previously paid by the Lessor to Sublessor pursuant to § 17 of the Lease, (ii) such sum shall not be payable before such time as Sublessee shall have made all payments or indemnities then due pursuant to this § 16, (iii) no Event of Default (or other event which with notice or lapse of time or both would constitute an Event of Default) shall have occurred and be continuing, (iv) in computing any tax savings actually realized by the Lessor for purposes of this paragraph, the Lessor shall be deemed first to have utilized all deductions and credits available to it otherwise than by reason of any such loss, recapture, disallowance, Additional Expenditure or early payment or payment to the Sublessee or the Sublessor, (v) any loss, recapture or disallowance of any such tax savings shall be treated as a loss subject to the provisions of this § 16 and (vi) the calculation of any amounts payable pursuant to this paragraph shall be based on the same assumptions as to tax rates set forth in the second sentence of the fourteenth paragraph of this § 16.

If for any reason whatsoever (other than any use or arrangement for use permitted by the Lease or this Sublease) the Lessor shall not be entitled to treat each item of income, deduction and credit with respect to the transactions contemplated by this Sublease as having a United States source for any taxable year, Sublessee shall pay to the Lessor an amount which shall be equal to the sum of (A) the excess of the foreign tax credit which would

have been allowed to the Lessor with respect to the taxable year and all prior taxable years if the Lessor had not participated in the transactions contemplated by the Lease or this Sublease over the foreign tax credit actually allowed to the Lessor and (B) the amount of any interest, penalties or additions to tax (including any interest, penalties or additions to tax because of underpayment of estimated tax) payable by the Lessor as a result of such loss of foreign tax credit, which amount shall be payable at such time as the tax and interest, penalties or additions to tax attributable to such loss of foreign tax credit are payable, but not sooner than 30 days after receipt by the Sublessee of written notice from the Lessor.

In the event a claim shall be made by the Internal Revenue Service which, if successful, would result in a Disallowance (which term, for the purposes of the remainder of this § 16, means a loss of all or any portion of the Investment Credit or the Depreciation Deduction with respect to any Unit) under circumstances which would require Sublessee to indemnify the Lessor for such Disallowance, the Lessor shall take such action in connection with contesting such claim as Sublessor shall reasonably request in writing from time to time, provided that (i) within 30 days after notice by the Lessor to Sublessee of such claim, Sublessor shall request that such claim be contested, (ii) the Lessor shall control all proceedings taken in connection with such contest and, at its sole option, may pursue or forego any and all administrative appeals, proceedings, hearings and conferences with the Internal Revenue Service in respect of such claim and may, at its sole option, either pay the tax claimed and sue for a refund or contest the claim in any permissible forum considering, however, in good faith such request as Sublessor shall make concerning the most appropriate forum in which to proceed, (iii) prior to taking such action, Sublessor shall have furnished the Lessor with an opinion of independent tax counsel agreed upon by Sublessor and the Lessor to the effect that a meritorious defense exists to such claim, (iv) Sublessor or Sublessee shall have indemnified the Lessor in a manner satisfactory to it for any liability or loss which the Lessor may incur as the result of contesting such claim and shall have agreed to pay the Lessor on demand all costs and expenses which the Lessor may incur in connection with contesting such claim, including, without limitation, (A) reasonable attorneys', accountants' and investigatory fees and disbursements, and

(B) the amount of any interest, penalty or fine which may ultimately be payable as the result of contesting such claim (to the extent not otherwise indemnified under this § 16), and (v) if the Lessor shall determine to pay the tax claimed and sue for a refund, Sublessee shall have paid to the Lessor the amounts payable pursuant to this § 16 hereof with respect to the Investment Credit or the Depreciation Deduction. In the case of any such claim referred to above, the Lessor shall promptly notify Sublessee in writing of such claim, agrees not to make payment of such claim for at least 30 days after the giving of such notice and shall give to Sublessee any relevant information relating to such claim which may be particularly within the knowledge of the Lessor, and otherwise cooperate with Sublessee in good faith in order to contest effectively any such claim and, if and to the extent agreeable to the Lessor, to permit Sublessor to participate in the proceedings relating to such claim. Nothing contained in this § 16 shall require the Lessor to contest a claim which it would otherwise be required to contest pursuant to this § 16 if the Lessor waives the payment by Sublessee of any amount that might otherwise be payable by Sublessee under this § 16 with respect to the Investment Credit the Depreciation Deduction by way of indemnity in respect of such claim.

If, after actual receipt by the Lessor of an amount paid by Sublessee and attributable to a Disallowance, the extent of such Disallowance shall be established by the final judgment or decree of a court or administrative agency having jurisdiction thereof or a settlement with the consent of Sublessee, the Sublessor shall, within 30 days, pay to Sublessee all or the portion of any refund received by the Lessor and paid to the Sublessor with respect to such Disallowance (together with any interest paid thereon by the taxing authority) plus simple interest at the rate which is applicable under Section 6621 of the Code from time to time from the date of actual collection by the Lessor of such refund (and any such interest thereon) to the date of payment by the Sublessor to Sublessee hereunder. Notwithstanding the foregoing, the Sublessor shall not be required to make any payment hereunder (i) to the extent such payment (minus any such interest attributable thereto not previously reimbursed by Sublessee) would exceed the amount previously paid by Sublessee to the Lessor with respect to the Disallowance giving rise to such refund, (ii) before such time as Sublessee shall have made all pay-

ments or indemnities then due pursuant to this § 16 and (iii) so long as an Event of Default (or other event which with notice or lapse of time or both would constitute an Event of Default) shall have occurred and be continuing.

If for any reason whatsoever any amount in respect of any replacement, alteration, modification, substitution, improvement and/or addition to any Unit or any expenditure by Sublessor, Sublessee or any affiliate of either, or by any sublessee of any thereof or by any other person which any of the foregoing shall have permitted to use any Unit, in respect of any Unit, the Lease or this Sublease or any agreement contemplated hereby or thereby (hereinafter called "Additional Expenditures") made by any of the foregoing under and pursuant to the terms of the Lease, this Sublease or otherwise is required to be included in the gross income of the Lessor for Federal, state or local income tax purposes at any time prior to the time such Unit is disposed of in a taxable transaction, Sublessee shall pay to the Lessor in respect of such inclusion an amount which shall be equal to any additional taxes required to be paid by the Lessor and the amount of any interest, penalties or additions to tax which may be payable by the Lessor in connection with such inclusion, which amounts shall be payable at such time as the tax and interest, penalties or additions to tax are payable, but not sooner than 30 days after receipt by Sublessee of written notice from the Lessor; provided, however, that in case of any Additional Expenditures (which the Sublessor or the Sublessee was required to make pursuant to the terms of the Lease or this Sublease) required to be included in the gross income of the Lessor not earlier than the last day of the term (including any renewals thereof) of this Sublease, the indemnification set forth in this paragraph shall extend only to the excess of the amount so included over the additional then fair market value of the applicable Unit attributable to such Additional Expenditure compared to the fair market value such Unit would have had had such Additional Expenditure not been made.

In the event that Sublessor or Sublessee shall pay all or any portion of any installment of rent prior to the date upon which such payment is required to be made hereunder or under the Lease, Sublessee shall pay to the Lessor an amount which shall be equal to the excess of (A) the taxes and other charges payable by the Lessor in the taxable year of the receipt of such installment of rent over (B) the taxes and other charges that would have been payable by the Lessor in such year had such installment of rent been paid by Sublessor or Sublessee on the date

upon which such payment is required to be made hereunder or under the Lease.

Notwithstanding any other provision of this § 16, to the extent Sublessee is required to make any payment under this § 16, Sublessee agrees that its payment or indemnity obligation shall also include any amount necessary to hold the Lessor harmless on an after-tax basis from all taxes required to be paid by Lessor with respect to such payment or indemnity under the laws of any Federal, state or local government or taxing authority, or under the laws of any foreign government or taxing authority. Whenever any payment is to be made by Sublessee under this § 16 and it is necessary in calculating the amount of such payment to compute the amount of any liability for Federal, state or local tax imposed on or measured by the net income of the Lessor, such computation shall be based on the assumption that such taxes are payable at the highest marginal statutory rates applicable to taxpayers having the same taxpayer status as Lessor for the taxable year to which such taxes relate.

All amounts due to the Lessor under this § 16 shall bear interest at the rate of 18% per annum from the date of payment by the Lessor of any tax and interest to the date the Sublessee shall reimburse the Lessor for such amounts in accordance with the provisions of this § 16.

The indemnity contained in this § 16 shall survive the expiration or other termination of the Lease or this Sublease. This remedy shall be in addition to all other remedies in favor of the Lessor existing in this Sublease under the Lease, the Sublease Assignment, the Consent or at law or in equity. Sublessee's obligations under this § 16 shall be those of a primary obligor whether or not the Lessor is also indemnified with respect to the same matter by any other person; provided that, if no Event of Default (or event which after notice or lapse of time or both would become an Event of Default) has occurred and is continuing, Sublessee's obligations under this § 16 shall be reduced by such indemnification actually and unconditionally received by Lessor.

For purposes of this § 16, the term "Lessor" shall include (i) C.I.T. Financial Services, Inc., and (ii) any successor to C.I.T. Financial Services, Inc., and the affiliated group which files a consolidated Federal or state income tax return which includes the Lessor shall be deemed to be the Lessor where the income tax liability of the Lessor or the realization of an item of income, gain, deduction or credit in connection with the determination thereof is an issue.

§ 17. Interest on Overdue Rentals. Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Sublessee promptly to pay, to the extent legally enforceable, an amount equal to 18% per annum of the overdue rentals and other obligations for the period of time during which they are overdue or such lesser amount as may be legally enforceable. Interest hereunder shall be determined on the basis of a 360-day year of 12 30-day months.

§ 18. Representations and Warranties. For the purposes of this § 18 this Sublease, the Assignment, the Lease, the Sublease Assignment and the Consent are collectively called the "Documents" and any Document to which any party or parties hereto or to the Assignment is called "its Documents".

The Sublessee represents and warrants to the Sublessor and the Lessor as follows:

(a) it is a corporation duly incorporated, validly existing and in good standing under the laws of the jurisdiction of its incorporation with corporate power to own its properties and to carry on its business as now conducted, and to enter into its Documents and is duly qualified to do business and is in good standing in such other jurisdictions in which the nature of its business requires such qualification;

(b) its Documents have been duly authorized, executed and delivered by it and constitute legal, valid and binding agreements, enforceable in accordance with their respective terms;

(c) no approval is required from any governmental or public body or authority with respect to the entering into or performance of its obligations under its Documents;

(d) the entering into and performance of its obligations under its Documents will not conflict with, result in any breach of, or constitute a default under its Articles of Incorporation or by-laws or any indenture, mortgage, deed of trust, bank loan or credit agreement or other agreement or instrument to which it or any of its subsidiaries is a party or by which they may be bound;

(e) no mortgage, deed of trust, or other lien of any nature whatsoever which now covers or affects, or which may hereafter cover or affect, any of its property or interests therein or of any of its subsidiaries, now attaches or hereafter will attach to the Units or in any manner affects or will affect adversely the Lessor's right, title and interest therein; provided, however, that such liens may attach to the leasehold interest of the Sublessor under the Lease and of the Sublessee hereunder in and to the Units;

(f) neither the execution and delivery by it of its Documents nor the consummation of the transactions therein contemplated nor the fulfillment of, or compliance with, the terms and provisions thereof will conflict with, or result in a breach or violation of, any of the terms, conditions or provisions of any law, regulation, rule, order, award, injunction or decree of any court or governmental instrumentality or arbitrator;

(g) there is no proceeding pending or threatened against or affecting it in any court or before any governmental authority or arbitration board or tribunal which involves the possibility of materially and adversely affecting its properties, business, prospects, profits or condition (financial or other) or its ability to perform its obligations under its Documents, it is not in default with respect to any order, judgment or award of any court, governmental authority or arbitration board or tribunal;

(h) it is not in default in the payment of principal of or interest on any indebtedness for borrowed money or for the deferred purchase price of real or personal property and no event has occurred and is continuing which, with or without notice and/or passage of time, would permit the holders of (or a trustee for the holders of) any such indebtedness of the Sublessee to accelerate the stated maturity thereof;

(i) it has filed all foreign, Federal, state and local tax returns which (to its knowledge) are required to be filed, and has paid or made adequate provisions for the payment of all taxes which have or

may become due pursuant to said returns or pursuant to any assessment received by it, other than taxes which are being contested in good faith or which in the aggregate do not involve a material amount;

(j) it has furnished to the Lessor its consolidated balance sheet as of May 31, 1980, and the related consolidated statements of income and retained earnings for the year then ended and its unaudited consolidated balance sheet as at the end of, and its unaudited consolidated income statement for, the quarter ended August 31, 1980; such consolidated financial statements are in accordance with its books and records and have been prepared in accordance with generally accepted accounting principles, applied on a consistent basis throughout the periods covered thereby and on a basis consistent with prior periods; such consolidated financial statements present fairly its financial condition at such dates and the consolidated results of its operations for such periods; and, except as set forth in a letter from the President of the Sublessor to the Lessor dated December , 1980, there has not been any material adverse change in its assets, liabilities, business or condition (financial or otherwise) since May 31, 1980;

(k) it is not entering into its Documents, or any other document or transaction contemplated hereby or thereby, directly or indirectly in connection with any arrangement or understanding by it in any way involving any employee benefit plan (other than a governmental plan) with respect to which it or, to the best of its knowledge, the Builder, the Lessor or the Sublessor is a party in interest, all within the meaning of the Employee Retirement Income Security Act of 1974, as amended ("ERISA");

(l) no filing, recording or deposit (or giving of notice) with any Federal, state or local government or agency thereof, other than the filing of the Lease, this Sublease, the Assignment and the Sublease Assignment with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303, is necessary in order to protect the rights of the Lessor under this Sublease in and to the Units in any state of the United States of America or the District of Columbia; and

(m) each Unit is intended for a use related to interstate commerce within the meaning of 49 U.S.C. § 11303.

§ 19. Notices. Any notice required or permitted to be given by a party to any other shall be deemed to have been given when mailed, first class certified, addressed as follows:

(a) if to the Lessor, at 650 Madison Avenue, New York, N. Y., Attention of the President,

(b) if to the Sublessee, at 346 Public Ledger Building, Independence Square, Philadelphia, Pennsylvania, Attention of the President, and

(c) if to the Sublessor, at 902 West Washington Avenue, Indianapolis, Indiana, Attention of the Chief Executive Officer,

or addressed to such party at such other address as such party shall hereafter furnish to the other parties in writing.

§ 20. Severability; Effect and Modification of Sublease. Any provision of this Sublease which is prohibited or unenforceable in any jurisdiction, shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

This Sublease exclusively and completely states the rights of the Sublessor and the Sublessee with respect to the leasing of the Units and supersedes all other agreements, oral or written, with respect thereto. No variation or modification of this Sublease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized signatories for the Sublessor and the Sublessee.

§ 21. Execution. This Sublease may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract,

but the counterpart delivered to the Lessor pursuant to the Sublease Assignment shall be deemed the original and all other counterparts shall be deemed duplicates thereof. It shall not be necessary that any counterpart be signed by all the parties so long as each party hereto shall have executed and delivered one counterpart hereof. Although this Sublease is dated for convenience as of the date specified in the introductory paragraph of this Sublease, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

§ 22. Law Governing. The terms of this Sublease and all rights and obligations hereunder shall be governed by the laws of the State of New York; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

IN WITNESS WHEREOF, the parties hereto have executed or caused this instrument to be executed as of the date first above written.

TIDEWATER GRAIN COMPANY,

by

Chairman

[Corporate Seal]

Attest:

Assistant Secretary

EARLY & DANIEL INDUSTRIES, INC.,

by

President

[Corporate Seal]

Attest:

Assistant Secretary

STATE OF
COUNTY OF

,)
) ss.:
,)

On this th day of December 1980, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is the Chairman of TIDEWATER GRAIN COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Notary Public

[Notarial Seal]

STATE OF NEW YORK,)
) ss.:
COUNTY OF NEW YORK,)

On this th day of December 1980, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is the President of EARLY & DANIEL INDUSTRIES, INC., that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Notary Public

[Notarial Seal]

[CS&M Ref.: 1240-141]

ASSIGNMENT OF SUBLEASE AND AGREEMENT

Dated as of November 15, 1980

By and Between

EARLY & DANIEL INDUSTRIES, INC.,
Lessee,

and

C.I.T. FINANCIAL SERVICES, INC.,
Lessor.

ASSIGNMENT OF SUBLEASE AND AGREEMENT
dated as of November 15, 1980 (the "Sublease
Assignment"), by and between EARLY & DANIEL
INDUSTRIES, INC. (the "Lessee"), and C.I.T.
FINANCIAL SERVICES, INC. (the "Lessor"),
acting through its agent, C.I.T. Corporation.

WHEREAS Tidewater Grain Company (the "Sublessee"),
has assigned to the Lessor, pursuant to a Purchase Order
Assignment dated as of the date hereof, certain of its
interests in a Purchase Agreement between the Sublessee and
Pullman Incorporated (Pullman Standard Division);

WHEREAS the Lessor has accepted said Assignment
and proposes to purchase from the Builder such units of
railroad equipment described in Schedule A to the Lease
(as hereinafter defined) as are delivered and accepted
under the terms of the Lease (the "Units");

WHEREAS the Lessor and the Lessee have entered
into a Lease of Railroad Equipment dated as of the date
hereof (the "Lease"), pursuant to which the Lessee leases
from the Lessor such number of Units as are delivered and
accepted under the Lease, at the rentals and for the terms
and upon the conditions therein provided;

WHEREAS the Lessee and the Sublessee have entered
into a Sublease of Railroad Equipment dated as of the date
hereof (the "Sublease"), pursuant to which the Sublessee
leases from the Lessee such number of Units as are so
delivered and accepted under the Lease, at the rentals and
for the terms and conditions therein provided;

WHEREAS, in order to provide security for the
obligations of the Lessee under the Lease, the Lessee
desires to assign to the Lessor for security purposes
the Lessee's rights in, to and under the Sublease.

NOW, THEREFORE, in consideration of the premises
and of the payments to be made and the covenants herein-
after mentioned to be kept and performed, the parties
hereto agree as follows:

1. The Lessee hereby assigns, transfers and sets
over unto the Lessor, as collateral security for the

payment and performance of the obligations of the Lessee under the Lease, all the right, title and interest, powers, privileges, and other benefits of the Lessee under the Sublease, including, without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by the Lessee from the Sublessee under or pursuant to the provisions of the Sublease whether as rent, casualty payment, termination payment, indemnities, liquidated damages or otherwise (such moneys being hereinafter called the "Payments"), and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Sublease, and to do any and all other things whatsoever which the Lessee is or may become entitled to do under the Sublease. In furtherance of the foregoing assignment, the Lessee hereby irrevocably authorizes and empowers the Lessor in its own name, or in the name of its nominee, or in the name of the Lessee or as its attorney, to ask, demand, sue for, collect and receive any and all Payments to which the Lessee is or may become entitled under the Sublease, and to enforce compliance by the Sublessee with all the terms and provisions thereof.

The Lessor agrees to accept any Payments made by the Sublessee for the account of the Lessee pursuant to the Sublease. To the extent received, the Lessor will apply such Payments to satisfy the obligations of the Lessee under the Lease, and, so long as no Event of Default (or event which with notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing under the Lease, any balance shall be paid to the Lessee.

2. This Sublease Assignment is executed only as security and, therefore, the execution and delivery of this Assignment shall not subject the Lessor to, or transfer, or pass, or in any way affect or modify the liability of the Lessee under the Sublease, it being understood and agreed that notwithstanding this Sublease Assignment or any subsequent assignment, all obligations of the Lessee to the Sublessee shall be and remain enforceable by the Sublessee, its successors and assigns, against, and only against, the Lessee or persons other than the Lessor.

3. The Lessee will faithfully abide by, perform and discharge each and every obligation, covenant and

agreement which the Sublease provides is to be performed by the Lessee; without the written consent of the Lessor, the Lessee will not anticipate the rents under the Sublease, or waive, excuse, condone, forgive or in any manner release or discharge the Sublessee thereunder of or from the obligations, covenants, conditions and agreements to be performed by the Sublessee, including, without limitation, the obligation to pay the rents in the manner and at the time and place specified therein or enter into any agreement amending, modifying or terminating the Sublease, and the Lessee agrees that any amendment, modification or termination thereof without consent shall be void.

Should the Lessee fail to make any payment or to do any act which this Sublease Assignment requires the Lessee to make or do, then the Lessor, but without obligation so to do, after first making written demand upon the Lessee, but without releasing the Lessee from any obligation hereunder, may make or do the same in such manner and to such extent as the Lessor may deem necessary to protect the security provided hereby, including specifically, without limiting its general powers, the right to appear in and defend any action or proceeding purporting to affect the security hereof and the rights or powers of the Lessor, and also the right to perform and discharge each and every obligation, covenant and agreement of the Lessee contained in the Sublease; and in exercising any such powers, the Lessor may pay necessary costs and expenses, employ counsel and incur and pay reasonable attorneys' fees, and the Lessee will reimburse the Lessor for such costs, expenses and fees.

4. The Lessee does hereby constitute the Lessor the true and lawful attorney of the Lessee, irrevocably, with full power (in the name of the Lessee, or otherwise), to ask, require, demand, receive, compound and give acquittance for any and all Payments due and to become due under or arising out of the Sublease to which the Lessee is or may become entitled, to enforce compliance by the Sublessee with all the terms and provisions of the Sublease, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which to the Lessor may seem to be necessary or advisable in the premises.

5. Upon the full discharge and satisfaction of all the obligations of the Lessee under the Lease or the

expiration or termination of the term of the Sublease, this Sublease Assignment and all rights herein assigned to the Lessor shall terminate, and all estate, right, title and interest of the Lessor in and to the Sublease, if any, shall revert to the Lessee.

6. The Lessee will pay and discharge any and all claims, liens, charges or security interests on the Sublease or the rentals or other payments due or to become due thereunder claimed by any party from, through or under the Lessee, or its successors and assigns (other than the Lessor), not arising out of the transactions contemplated by the Lease, or the Sublease (but including tax liens arising out of the receipt of the income and proceeds from the Units), which, if unpaid, might become a claim, lien, charge or security interest on or with respect to the Lease, or the Sublease, or such rentals or other payments equal or superior to the interest therein of the Lessor, unless the Lessee shall be contesting the same in good faith by appropriate proceedings in any reasonable manner and the nonpayment thereof does not, in the reasonable opinion of the Lessor, adversely affect such interests of the Lessor.

7. The Lessee will, from time to time, execute, acknowledge and deliver any and all further instruments required by law as reasonably requested by the Lessor in order to confirm or further assure the interest of the Lessor hereunder.

8. The Lessor may assign all or any of the rights assigned to it hereby or arising under the Sublease, including, without limitation, the right to receive any Payments due or to become due, and the power to act as the Sublessee's true and lawful attorney. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Lessor hereunder. The Lessor will give written notice to the Lessee and the Sublessee of any such assignment.

9. This Sublease Assignment and Agreement shall be governed by the laws of the State of New York, but the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

10. The Lessee shall cause copies of all notices

received in connection with the Sublease and all payments thereunder to be promptly delivered or made to the Lessor at its address set forth in the Lease or at such other address as the Lessor shall designate.

11. The Lessor hereby agrees with the Lessee that the Lessor will not, so long as no Event of Default under the Sublease or the Lease (or event which with notice or lapse of time or both would become an Event of Default) has occurred and is continuing, exercise or enforce, or seek to exercise or enforce, or avail itself of, any of the rights, powers, privileges, authorizations or benefits which are assigned and transferred by the Lessee to the Lessor by this Sublease Assignment, except the right to receive and apply the Payments as provided in Paragraph 1 hereof and to receive indemnities pursuant to the Sublease and the Consent and Agreement attached hereto and dated as of the date hereof, and that, subject to the terms of the Lease and the Sublease, the Lessee may, so long as no Event of Default under the Lease or the Sublease (or event which with notice or lapse of time or both would become an Event of Default) has occurred and is continuing, exercise or enforce, or seek to exercise or enforce or avail itself of, such rights, powers, privileges, authorizations or benefits.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names by officers thereunto duly authorized, and their respective corporate seals to be affixed and duly attested, all as of the date first above written.

C.I.T. FINANCIAL SERVICES, INC.,

by

C.I.T. CORPORATION, as Agent,

by

Vice President

[Corporate Seal]

Attest:

Assistant Secretary

STATE OF NEW YORK,)
) ss.:
COUNTY OF NEW YORK,)

On this day of December 1980, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is the President of EARLY & DANIEL INDUSTRIES, INC., an Indiana corporation, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation and that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Notary Public

[Notarial Seal]

My Commission expires

STATE OF NEW YORK,)
) ss.:
COUNTY OF NEW YORK,)

On this day of December 1980, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of C.I.T. CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation and that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Notary Public

[Notarial Seal]

My commission expires

CONSENT AND AGREEMENT

The undersigned, TIDEWATER GRAIN CORPORATION ("Sublessee"), the Sublessee named in the Sublease (the "Sublease") referred to in the foregoing Assignment of Sublease and Agreement (the "Sublease Assignment"), hereby (a) acknowledges receipt of a copy of the Sublease Assignment and (b) consents to all the terms and conditions of the Sublease Assignment and agrees that:

(1) it will pay or cause to be paid all rentals, casualty payments, termination payments, liquidated damages, indemnities and other moneys provided for in the Sublease (which moneys are hereinafter called the "Payments") due and to become due under the Sublease or otherwise in respect of the Units leased thereunder, directly to C.I.T. FINANCIAL SERVICES, INC. (the "Lessor"), the assignee named in the Sublease Assignment, at the address set forth in the Sublease (or at such other address as may be furnished in writing to the Sublessee by the Lessor);

(2) the Lessor shall be entitled to the benefits of, and to receive and enforce performance of, all the covenants to be performed by the Sublessee under the Sublease as though the Lessor were named therein as the lessor;

(3) the Lessor shall be entitled to rely on the Sublessee's representations and warranties made pursuant to the Sublease as if made herein to the Lessor;

(4) the Lessor shall not, by virtue of the Sublease Assignment or this Consent and Agreement, be or become subject to any liability or obligation under the Sublease or otherwise; and

(5) the Sublease shall not, without the prior written consent of the Lessor, be terminated (except in accordance with its terms) or modified, nor shall any action be taken or omitted by the Sublessee the taking or omission of which might result in an alteration or impairment of the Sublease or the Sublease Assignment or this Consent and Agreement or of any of the rights created by any thereof.

(6) it will (i) execute, deliver and/or furnish all notices, certificates, communications, instruments, agreements, legal opinions and other documents and papers required to be executed, delivered and/or furnished by it (or its counsel) pursuant to the provisions of the Lease and the Sublease and (ii) do all such acts and execute and deliver all such further assurances required to be done and/or executed and delivered by it pursuant to the provisions of any thereof.

This Consent and Agreement may be executed in several counterparts, each of which when so executed shall be deemed an original, and such counterparts together shall constitute one and the same instrument.

This Consent and Agreement, when accepted by the Lessor by signing the acceptance at the foot hereof, shall be deemed to be a contract under the laws of the State of New York and, for all purposes, shall be construed in accordance with the laws of said state.

TIDEWATER GRAIN COMPANY,

by

Chairman

[Seal]

Witness:

The foregoing Consent and Agreement is hereby accepted, as of November 15, 1980.

C.I.T. FINANCIAL SERVICES, INC.,

by

C.I.T. CORPORATION, as Agent,

by

Vice President